



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

1900 SW Fourth Ave. Suite 5000  
Portland, Oregon 97201  
Telephone: 503-823-7300  
TDD: 503-823-6868  
FAX: 503-823-5630  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** June 18, 2008  
**To:** Interested Person  
**From:** Matt Wickstrom, Land Use Services  
503-823-7840 / [WickstromM@ci.portland.or.us](mailto:WickstromM@ci.portland.or.us)

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

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

### **CASE FILE NUMBER: LU 08-118344 AD**

#### **GENERAL INFORMATION**

**Applicant:** Russ Hale  
GBD Architects  
1120 NW Couch St, Suite 300  
Portland, OR 97209

**Owner:** Wings Of Healing  
17675 NW Shady Fir Lp #71  
Beaverton, OR 97006-8202

**Purchaser:** Aaron Jones  
GED (Gerding Edlen Development)  
1120 NW Couch St, Suite 600  
Portland, OR 97209

**Site Address:** 2030 SE HAWTHORNE BLVD

**Legal Description:** BLOCK 1 LOT 1 EXC PT IN STS & LOT 2-4, COLONIAL HTS  
**Tax Account No.:** R172100010  
**State ID No.:** 1S1E02DA 04500  
**Quarter Section:** 3232

**Neighborhood:** Hosford-Abernethy, contact Frank Dufay at 503-823-4088  
**Business District:** Hawthorne Blvd. Bus. Assoc., contact Darren Balogh at 503-233-6569  
**District Coalition:** Southeast Uplift, contact Gary Berger at 503-232-0010

**Zoning:** CS (Storefront Commercial)  
**Case Type:** AD (Adjustment)  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:**

The applicant plans to construct a 4-story, 52,000 square foot mixed-use building at this site. The project is designed with an approximately 5,000 square-foot retail tenant space, 51 residential units and 34 parking spaces (29 of which are located in a three-tier automated parking system). The Zoning Code requires that mixed-use projects with over 50,000 square feet of floor area provide two on-site loading spaces. These spaces are required to be 35 feet in length, 10 feet in width and have a floor to ceiling clearance of 13 feet. The applicant proposes one Adjustment associated with the required loading spaces. Through this Adjustment Review, the applicant proposes to waive one of the required on-site loading spaces and to reduce the dimensional requirements for the second loading space to 26 feet in length, 8 feet in width, with a clearance of 15 feet.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of 33.805.040 A-F, Adjustments:

**ANALYSIS**

**Site and Vicinity:** The approximately 20,000 square foot site is located at the corner of SE Hawthorne Boulevard and SE 20<sup>th</sup> Avenue. It is currently developed with a church. A building permit (08-134830 CO) has been issued for the demolition of the church. Development in this vicinity includes a mix of commercial development as well as single and multi-dwelling residential uses. A two-story commercial building is located to the west of the site and single-dwelling development part of the Ladd's Addition neighborhood is located further west from the site on the side of SE 20<sup>th</sup> Avenue. Commercial uses are located to the north and northwest of the site across SE Hawthorne Boulevard. An apartment building is located to the east of the site as are other structures containing multi-dwelling development. Single-dwelling development is located further east and southeast of the site. A paved area formerly used as the parking lot for the church is located to the south of the site. The Zoning of this site was recently approved to change from one single-dwelling zone (R5) to another (R2.5), land use review case LU 08-105463 ZC. A maximum of three duplexes can currently be built on that property. Single-dwelling development is located further south of the site.

**Zoning:** The site is zoned CS (Storefront Commercial). The CS zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone allows a full range of retail, service and business uses with a local and regional market area. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

**Land Use History:** City records indicate the ownership has prior land use reviews (08-105463 ZC, described above) but the project site does not have prior land use review history.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on May 16, 2008. A total of six written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. Two of these responses were received after the June 6, 2008 comment deadline of 5:00 PM but are briefly discussed as well.

One response received from a nearby neighbor expressed concern about the loading space Adjustment request. The response states that a waiver of the requirement for the second loading space would negatively impact traffic flow and congestion particularly at the intersection of SE 20<sup>th</sup> Avenue and SE Hawthorne Boulevard and mentions current traffic backups and congestion as evidence. The response mentions limited on-street parking as rationale for why an on-street loading spaces should not be provided (although none is requested as part of this review) but also states that a lack of designated loading spaces could result in loading activities occurring on SE 20<sup>th</sup> Avenue or SE Hawthorne Boulevard which could block traffic. The respondent states that the retail tenant spaces proposed as part of the project would require regular deliveries which could result in "dangerous traffic maneuvers". The response mentions other loading activities which occur for nearby retail tenants. Also mentioned are issues which do not relate to the loading space Adjustment. These issues include density,

length of residency for the residential tenants of the building, noise, traffic, proposed ground floor live/work units which could eventually become solely commercial spaces and a perceived need to “balance” density and livability. The response also includes several suggestions for improvements to the public right-of-way and the location of garbage collection facilities.

*Staff Response: The response from the Portland Department of Transportation (PDOT) specifically addresses this letter; PDOT comments are included below under Agency Review. Concerns expressed about the proposed loading space Adjustment are addressed as part of the findings of this report. Density is not addressed as part of this decision because the number of residential units proposed are allowed by right as is the square footage of the commercial tenant space and location of live/work units which could feasibly be converted to commercial-only spaces although such a change is not proposed as part of the project. The Zoning Code does not differentiate between rental and ownership of commercial or residential units therefore issues related to length of residency are not evaluated as part of this report. Criterion B in the findings below addresses the consistency of the proposal and the classifications of the adjacent streets. The approval criteria does not specifically address issues of traffic safety; however the PDOT response below does address some of the issues mentioned. The Portland Zoning Code only applies to private property and therefore suggestions for transportation related improvements in the public right-of-way cannot be considered or conditioned as part of this review; however, staff did forward all transportation-related suggestions to PDOT.*

The Hosford Abernathy Neighborhood Association (HAND) response stated that due to the timing of the comment period in relation to scheduled HAND meetings, no official vote of the full board was possible. The response states that HAND has “no serious issue” with the proposed Adjustment to loading standards. The response notes that “we believe that the parking places that would potentially be lost would have more negative impact than the loss of a second loading dock”. The response goes on to note that HAND as well as other nearby neighbors have concerns about impacts on traffic, parking and congestion as these factors would impact auto, pedestrian, bicycle and truck movement through “an already difficult area”. The response asks for a PDOT determination about traffic impacts particularly considering that other similarly sized projects could occur in the area. The respondent lists traffic concerns which include the recent reconfiguration of the intersection at SE 20<sup>th</sup> and SE Hawthorne, on-street parking, left turn access to Elliott Avenue and the potential use of nearby local streets by delivery trucks wishing to access the site. The response mentions several potential mitigation options which include traffic calming, design revisions to the SE 20<sup>th</sup> and SE Hawthorne intersection, incentives to encourage residents to use alternative modes of transportation including car share programs such as ZipCar, larger secure bicycle facilities and permit parking in the neighborhood. Also as mitigation, the response suggests limitations on the hours of deliveries so that they do not occur during peak commuting hours. The response (and one other) also included an agenda and list of potential design, right-of-way improvements, traffic concerns and potential mitigation measures which were discussed at a meeting between neighbors, HAND, the developer, architects and City staff.

*Staff Response: Issues related to the proposed Adjustment to the loading space standards are addressed as part of this report. Staff has forwarded HAND concerns about traffic and potential mitigation measures to PDOT staff, including the meeting agenda and associated discussion topics. The PDOT staff member who reviewed this Adjustment Review application is in the process of setting up a meeting with the neighborhood association and representatives of the traffic calming section of PDOT to discuss possible right-of-way improvements. The applicant has mentioned a willingness to attend this meeting as well. PDOT cannot respond to requests about traffic impacts of projects which have yet to be submitted for permit or review. Programs such as permit parking constitute a much larger evaluation which is out of the scope the Adjustment Review approval criteria, the Zoning Code and this specific project.*

Another response was received from a nearby neighbor. The response requests that the City deny the request to adjust the loading space standards for the project. The response states that the proposal does not meet Criterion A of the Adjustment approval criteria because the function of SE 20<sup>th</sup> Avenue is limited and auto-oriented land use and commercial activities

should be discouraged from using Local Service Streets as their primary access (please see PDOT comments under Agency Review regarding this statement). The response states that the location of the proposed loading space will have a negative effect on both traffic safety and the transportation function and is inconsistent with the Local Service Street designation. The respondent also states that traffic congestion will block access to the proposed loading space and as westbound traffic on SE Hawthorne cannot turn left onto SE 20<sup>th</sup> Avenue, delivery vehicles would be directed to other residential streets in the neighborhood. The response goes on to say that the proposal does not include any mitigation and therefore does not meet Criterion E of the Adjustment approval criteria. The respondent states that as mitigation, consideration should be given to relocating the loading space to SE Hawthorne Boulevard or implementing traffic calming measures along SE 20<sup>th</sup> Avenue. The response includes several pages of PDOT traffic volume and velocity reports as well as a photo which shows cars backed up on SE 20<sup>th</sup> Avenue.

*Staff Response: The response from PDOT specifically addresses this letter; PDOT comments are included below under Agency Review. Once again, as the Zoning Code only applies on private property, this decision cannot consider or condition improvements in the public right-of-way as mitigation. Criterion E of the Approval Criteria does not require mitigation for all proposals, it states that “any impacts associated with the adjustment are mitigated to the extent practical”. This review finds that mitigation has occurred to the extent practical and imposes conditions to that effect.*

Another response was received from a nearby neighbor. The response states that the current building does not “fit” the site and will attract too many individuals with cars. The response also states that the City of Portland is not looking at “the broader picture” and projects such as this one will undermine livability. The response mentions problems with on-street parking and having a driveway blocked by parked cars on several occasions. The response questions why an Adjustment to reduce the number and size of required loading spaces would be considered. The response questions what would happen if residential move-ins (and move-outs) and commercial deliveries occurred at the same time. The response states that adding an on-street loading space on SE Hawthorne or SE 20<sup>th</sup> would not be reasonable. The response states that based on the current location of the loading space, a delivery vehicle would block residential vehicles from entering and/or exiting the parking garage of the proposed building. The respondent states that claims that the retail tenants would not have many deliveries is unreasonable because the retail spaces have not yet been leased. The respondent states that fulfilling the full loading space requirements should not reduce the amount of on-site parking because it doesn’t take long to draw up new plans. The response suggests providing two loading spaces which can be shared by residents during certain hours and providing parking for a car share vehicle such as a ZipCar. The response also asks if more bus service is planned to accommodate the additional residents.

*Staff Response: This review does not consider the number of units, size or bulk of the proposed building because the Zoning Code allows these aspects of the project by right. Claims that the City is not examining the “broader picture” do not consider that the zoning regulations currently in place were developed through processes which considered a broader range of issues and vicinity. The availability of on-street parking or blocked driveways are not addressed as part of decision because in this situation the approval criteria does not allow application to the public right-of-way. The Adjustment request to reduce the number of on-site loading spaces from two to one is addressed as part of the findings of this review. The location of the proposed loading space in relation to the vehicle entrance and exit is also addressed as part of this review as is the amount of retail tenant space proposed as part of this review in relation to the amount of loading activity which would likely occur. Some of the suggestions for mitigation are also evaluated as part of this review. Bus service is provided by Tri-Met, not the City of Portland, and cannot be evaluated as part of this review. However a response was received from a planner from Tri-Met which discusses issues related to the bus stop on SE Hawthorne Boulevard. Adjustments can be requested to vary from development standards in the Portland Zoning Code and the City can approve these requests, approve them with conditions, or deny them.*

*Two responses were received after the 5:00 PM comment deadline on June 6, 2008. One included the agenda and discussion topics list from the meeting with the developer, architect, HAND, neighbors and City staff which was already attached to another comment received within the comment period. The other addressed traffic and safety concerns which have been mentioned in other letters mentioned above. The response also states concern with the overall scale of the proposed building which also was mentioned in another letter and which cannot be evaluated as part of this review because the height, floor area ratio and setbacks proposed are allowed by right and are not related to the Adjustment request.*

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **May 16, 2008**. The following Bureaus have responded:

- The Development Review Section of Portland Transportation (PDOT) reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33 (Portland Zoning Code), Title 17 (Public Improvements), and for potential impacts upon transportation services. The response states no objections to the Adjustment request to reduce the number of required loading spaces from two to one and states no objection to the request to reduce the required size for the one on-site loading space. The response notes that information has been provided which reflects the types and sizes of delivery vehicles anticipated to serve the uses at the site. The PDOT reviewer states that the loading needs of the residential portion of the site are estimated to be 3 to 4 service vehicles per week and 2 to 3 moving trucks per month. The response notes that the loading space will then be available to serve commercial spaces at all other times. “PDOT concurs with the applicant’s assumptions about the sizes of vehicles and frequency of loading expected for the site and agrees that only one loading space is needed to serve the size of building and uses proposed”. “The applicant has demonstrated that the loading needs of the site will be met by the alternative proposed, without use of the public right-of-way and therefore, the adjustment to reduce the required spaces to one, and the reduction of the size of the one loading space will not negatively affect traffic safety or other transportation functions of the abutting right-of-way”. The PDOT reviewer concludes that “granting of the adjustment will equally meet the transportation related purpose of the loading standards.

The PDOT reviewer specifically addressed two of the letters which were summarized above (the first and the third). Responding to concerns that the reduction to the number of loading spaces would result in loading activities occurring in the street, the PDOT reviewer states that “PDOT agrees with the applicant’s analysis that the one 26-foot (long and 8-foot wide) loading space will adequately serve the loading needs of the site and that no on-street loading would be needed to supplement the on-site loading. PDOT acknowledges that the business practices for some companies (i.e. UPS) do not allow drivers to park in on-site loading spaces and instead those drivers are instructed to park along the street”. The SE 20<sup>th</sup> Avenue and SE Hawthorne Boulevard frontages of the site include some on-street parking spaces that could accommodate these vehicles without blocking traffic lanes. PDOT Parking staff would likely be able to sign the parking spaces on Hawthorne east of the bus stop for limited time parking (15 min, 30 min, etc) to increase the turnover and availability of on-street spaces”. Responding to loading practices which occur for other nearby retail uses, the reviewer states that “PDOT’s Parking staff can be contacted to evaluate existing loading issues to determine if it would be appropriate to remove on-street parking to provide a loading zone on the opposite side of SE 20<sup>th</sup> Avenue for those existing uses”. Responding to concerns with the location of the access of the proposed building in relation to SE 20<sup>th</sup> Avenue, the reviewer notes that “the location of the driveway to access the loading space is not subject to the Adjustment Review. The subject loading Adjustment applies to the size and number of loading spaces that are required. If no loading adjustment had been proposed PDOT would have required that the driveway to serve the two loading spaces be placed in the same location along SE 20<sup>th</sup> Avenue”. The response notes that “the loading space has been located within the parking garage to allow loading vehicles to turn around inside the garage and allow loading vehicles to enter and exit the site in a forward motion”.

The PDOT response also included information about the proposed SE 20<sup>th</sup> Avenue driveway location. The response states that when a site has frontage on two streets, PDOT evaluates

both streets to determine where the driveway should be located along the site frontages to have the least impact to the safety and operation of the public street system for all modes (vehicles, pedestrian, bicycles, transit). PDOT has determined that granting access to SE 20<sup>th</sup> Avenue as far from the SE Hawthorne/SE 20<sup>th</sup> signalized intersection as possible is the most desirable driveway location to minimize safety and operational impacts to the public street system. SE Hawthorne along the subject site frontage is designated in the City's Transportation System Plan (TSP) as a District Collector Street, Major Transit Priority Street, City Walkway, City Bikeway, Truck Access Street, Major Emergency Response Street, and a Community Main Street. SE 20<sup>th</sup> Avenue is designated in the City's TSP as a Local Service Traffic Street, Transit Access Street, and a City Walkway. One letter received states that it is inappropriate per the City's TSP to locate the proposed driveway on SE 20<sup>th</sup>, a Local Service Traffic Street, because the subject site is an "auto-oriented land use." In general PDOT does not classify residential uses as "auto-oriented" and would not classify the limited commercial space that is proposed as "auto-oriented" as no retail parking is located on-site. Examples of "auto-oriented" sites include, but are not limited to, gas-stations, drive-through facilities, shopping centers with high parking ratios, etc. In this particular location, with frequent service transit on Hawthorne (bus line 14), and a parking ratio of less than one space per residential unit, the proposed residential and limited commercial uses are not considered by PDOT to be auto-oriented in the context of the City's TSP. The City's TSP also says that "Local Service Traffic Streets are intended to distribute local traffic and provide access to local residences or commercial uses." The proposed driveway access to SE 20<sup>th</sup> is consistent with the Local Service Traffic Street designation in the City's TSP and PDOT finds the proposed SE 20<sup>th</sup> Avenue driveway to be the most appropriate driveway location to serve the proposed site. The response concludes by reiterating that PDOT has no objection to the proposed loading adjustment (Exhibit E-1).

- The Life Safety Section of BDS responded that a building permit has been applied for and is currently under review (Exhibit E-2).
- A representative of Tri-Met responded that the agency would like to see the front landing area of the bus stop for bus #14 which is approximately 63 feet east of the 20<sup>th</sup> Avenue pedestrian crossing, have a concrete landing pad of at least 10 feet wide by 8 feet deep which is the desired ADA standard. The response also mentions an alternative which is to move the existing bus stop about 20 feet to the east (if the existing driveway closes). The response also discusses the potential of providing a bus shelter for this stop. The response states that "by planning for the bus stop and giving some consideration to stop placement and logistics, the bus stop might peacefully coexist with the surroundings better than if the stop is treated as an afterthought of the project". (Exhibit E-3).

*Staff Response: This response (and all others) were forwarded to the applicant and PDOT for review and consideration.*

- The Site Development Section of BDS, the Bureau of Environmental Services as well as the Fire, Water and Parks Bureaus all responded with no concerns (Exhibit E-4).

## **ZONING CODE APPROVAL CRITERIA**

### **Title 33.805.10 Purpose of Adjustments**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the code's regulations would preclude all use of the site. Adjustment reviews provide flexibility for unusual situations and to allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

### **33.805.40 Adjustment Approval Criteria**

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below are met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

**Findings:** Based on the mix of commercial and residential uses in this project and the number of residential dwelling units, the Portland Zoning Code requires two on-site loading spaces. These loading spaces are required to be 35 feet in length, 10 feet in width with a clearance of 13 feet. The applicant requests one Adjustment to waive one of the required on-site loading spaces and to reduce the size of the second to 26 feet in length, 8 feet in width with a clearance of at least 13 feet (currently shown as 15 feet). The purpose of the loading space standards is listed below.

***Purpose 33.266.310 Loading Standards***

*A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way.*

Discussion of the Adjustment request involves four primary components: the request to waive one on-site loading space, the request to reduce the size of the second on-site loading space, City staff expertise and experience reviewing such proposals, and comments and additional concerns expressed by neighbors.

The project is composed of approximately 5,000 square feet of retail tenant space and 51 residential units. The Portland Zoning Code does not require an on-site loading space for commercial uses which have less than 20,000 square feet of floor area and only one loading space for residential projects with more than 50 dwelling units. Based on this information, the requirement to provide two on-site loading spaces is triggered solely because the project is a mixed-use building. In other words, were the project built with only the proposed 5,000 square feet of retail space, no loading space would be required. Or, were the project built with only the proposed 51 dwelling units, only one loading space would be required. In addition, were the project built as solely residential and with one less dwelling unit, no on-site loading would be required. Lastly, were the project constructed as two separate buildings, one with 5,000 square feet of retail space and one with 51 residential dwelling units, only one loading space would be required.

One neighbor expressed concern that a reduction to the required number of on-site loading spaces would result in overlapping and competing loading needs by the commercial and residential tenants of the project. PDOT examined the loading needs of the project and estimates that, for the residential portion of the project, a total of 3 to 4 service vehicles per week would visit the site and a total of 2 to 3 moving vehicles per month would visit the site. This allows the loading space to be utilized for commercial uses the remainder of the time. Staff finds that based on this information, the potential for overlapping or competing residential and commercial loading needs is minimal and does not constitute a need for two separate on-site loading spaces. This is especially true considering that only approximately 5,000 square feet of retail tenant space is proposed as part of the project. Concern was expressed that the commercial tenants have yet to be identified and therefore it is not possible to forecast the loading needs of the prospective tenants. By not requiring an on-site loading space for commercial uses which have less than 20,000 square feet in floor area, the Zoning Code includes a mechanism which forecasts when an on-site loading space for commercial uses is deemed most necessary. As the proposed amount of commercial spaces is only 25 percent of the amount which triggers a required space for commercial-only projects, regardless of whether retail tenants have been identified, concerns that future retail tenants may require a high-volume of loading needs cannot be supported.

The Hosford Abernathy Neighborhood Association (HAND) stated in their letter that the number of on-site residential parking spaces which would potentially be lost, were the project to include two on-site loading spaces, would have more negative impact than the loss of a second loading space. Staff concurs with this assessment and believes it is especially important to consider that the Zoning Code does not require any on-site parking in this location. Providing a second on-site loading space instead of providing as many on-site vehicle parking spaces as possible could impact on the availability of on-street parking in the vicinity and/or lead to a less than efficient use of available space in the parking garage. In order to ensure that any modifications to the project still provide the amount of on-site parking consistent with the amount shown in the Notice of Proposal, a condition of approval is included with this review which requires the project provide a minimum ratio of .56 parking spaces to every 1 residential unit. This is two less on-site parking spaces than currently shown on the plans which allows for unforeseen modifications to be made to the building and current parking configuration without triggering a new Adjustment Review. Many comments suggested that the impacts associated with the reduction to the number and size of on-site loading spaces could be further reduced though the provision of a shared car (currently known as ZipCar) for use by the residents of the building. Staff agrees that an adequate nexus exists between the request to reduce the required amount of on-site loading spaces and the need for efficient use of the ground level parking garage. This efficiency can be further improved by providing a shared car (ZipCar). Therefore, this review includes a condition of approval which requires that the applicant explore providing a shared vehicle. As ZipCar practices typically do not allow their vehicles to be located in locked garages, the potential location for such a vehicle should include evaluation of locating the space on-site or, through PDOT, in one of the on-street parking spaces along the street frontage of the site.

A neighbor stated that redesigning the building to accommodate two on-site loading spaces does not necessarily need to result in a loss of on-site parking. This review evaluates whether the proposal to reduce the number of on-site loading spaces from two to one equally or better meets the purpose of the regulation, not whether the project could be redesigned to accommodate two loading spaces. The above findings adequately demonstrate that only one on-site loading space is necessary especially considering the amount of on-site parking and the square footage of retail tenant space which is proposed. PDOT reviewed the proposal to waive one of the two on-site loading spaces and agreed that “only one loading space is needed to serve the size of the building and uses proposed”.

PDOT also reviewed the request to reduce the size of the one proposed on-site loading space and stated no objection to the Adjustment to reduce the length and width of the required loading space. The response notes that adequate information was submitted concerning the types and sizes of vehicles anticipated to serve the loading needs and states that “PDOT concurs with the applicant’s assumptions about the sizes of vehicles”. Further, PDOT states, “The applicant has demonstrated that the loading needs of the site will be met by the alternative proposed without use of the public right-of-way and therefore, the Adjustment to reduce the required spaces to one, and the reduction of the size of the one loading space will not negatively affect traffic safety or other transportation functions of the abutting right-of-way”. As a general background behind these statements and assumptions, loading vehicles which are commonly vans and shorter moving trucks serve smaller retail tenant spaces (as opposed to larger retail uses such as grocery stores) and relatively smaller apartments (one to two bedroom units). These smaller trucks and vans will adequately fit in the reduced size of space proposed and reviewed by PDOT. The loading space is designed so that it does not conflict with the residential entrance and exit to the parking garage and so that the loading vehicle can turn-around on-site and exit in a forward motion. Based on the location of the garage door, a vehicle could enter the site and wait outside of the turn-around area while the loading vehicle turns around to exit the site. Based on the location of the proposed loading space outside of the entrance and exit driveway and the ability for a vehicle entering the garage to wait outside of the turn-around area, potential conflicts between loading and residential vehicles are adequately minimized. Again, this is especially true considering the amount of residential loading activities expected and the amount of retail tenant space proposed as part of the project.



Review of the proposal to waive one on-site loading space for the project and to reduce the size of the second relies on Land Use Services and PDOT staff experience and history of other projects. Below, is a chart identifying some recent land use review decisions which approved changes to the Zoning Code requirements for loading spaces that serve residential and mixed-use projects:

<b>LU Case #</b>	<b>Project Description</b>	<b>Zoning</b>	<b>Loading Space Adjustment/Modification</b>
01-007469 AD	27 dwelling units, ground-level retail at 4105 NE Broadway	CS, Storefront Commercial	Reduced size of space to 31' x 12' with 10' clearance.
01-007784 AD	45 dwelling units at SE 39 <sup>th</sup> and Hawthorne Blvd.	CN2, Neighborhood Commercial	Reduced length from 35' to 30'.
02-109604 AD	Development for elderly housing with social services at 2800 SE 92 <sup>nd</sup> Ave.	R2, Multi-Dwelling Residential 2,000	Waived loading space requirement.
02-128063 AD	25-unit residential project on streetcar alignment at NW 22 <sup>nd</sup> and Lovejoy	RH, High Density Residential	Reduced size of space to 20' x 8' with 10' clearance.
02-134655 ZC AD	16 townhome units, 17,500 square feet of ground floor retail at SE Hawthorne and SE 34 <sup>th</sup> Ave.	CS, Storefront Commercial	Waived forward motion requirement, limited delivery hours.
02-152897 AD	Mixed-use building at NE 16 <sup>th</sup> and NE Broadway	CS, Storefront Commercial	Waived requirement for forward ingress/egress.
03-100642 DZM	179 residential units, ground-level retail at NW Northrup and 10 <sup>th</sup> Ave.	EXd, Central Employment with a Design overlay	Reduced size of spaces, waived forward motion requirement
03-119616 AD	50-unit residential project at NW 22 <sup>nd</sup> Avenue and NW Lovejoy	RH, High Density Residential	Reduced required number of spaces from 2 to 1 and allowed loading space on garage ramp.
03-148936 AD	4-story mixed-use building with 4,000 sq. ft. of ground level retail at SE 34 <sup>th</sup> and SE Belmont	CS, Storefront Commercial	Waived required loading space
03-168997 DZM	217 units, 6,700 sq. ft. retail at NW Northrup and 12 <sup>th</sup> Ave.	EXd, Central Employment with a Design overlay	Reduced size, waived forward motion requirement
04-043107 DZM	52 units, 3,000 sq. ft retail at SW Jefferson and 18 <sup>th</sup> Ave.	CXds, Central Commercial with a Design and Scenic overlay	Reduced size of space
05-153326 AD	27 units, 4,200 sq. ft. retail at SE Division and 26 <sup>th</sup>	CM, Mixed Use Commercial with a Main Street overlay	Waived on-site loading space
05-153368 DZM	61 units, 4,200 sq. ft. retail at NW 12 <sup>th</sup> and Everett	EXd, Central Employment with a Design	Waived 2 on-site loading spaces

		overlay	
05-177355 DZM	112 units, 10,945 sq. ft. retail at NW 9 <sup>th</sup> and Glisan	EXd, Central Employment with a Design overlay	Reduced from 2 to 1 spaces, reduce size
06-103247 HDZM A	32 units, 5,600 sq. ft. retail at N Mississippi and N Skidmore	CS, Storefront Commercial	Reduce size of space
<b>LU Case #</b>	<b>Project Description</b>	<b>Zoning</b>	<b>Loading Space Adjustment/ Modification</b>
06-109715 DZM	280 units, 6,986 sq. ft. retail in the South Waterfront district	CXd, Central Commercial with a Design overlay	Reduced size of spaces
06-120216 DZM	51 units, 2,700 retail at 6388 SW Capitol Highway	CSd, Storefront Commercial with a Design Overlay	Reduced size of space
06-137171 DZM	20-story residential building with ground-level retail in the South Waterfront district	CXd, Central Commercial with a Design overlay	Reduced size of spaces
06-148149 DZM	354 units, 5,700 sq. ft. retail at SW 4 <sup>th</sup> and Montgomery St.	CXd, Central Commercial with a Design overlay	Reduced from 2 to 1, reduced size
06-165863 AD	123 units, 3,674 sq. ft. retail at 2139 SE Belmont	CS, Storefront Commercial	Reduce from 2 to 1 spaces, reduce size
06-172057 AD	36 units, 4,300 sq. ft. retail at SE 47 <sup>th</sup> and SE Hawthorne	CS, Storefront Commercial	Waived on-site loading space
06-186141 AD	32 units, 5,900 sq. ft. retail at SE 28 <sup>th</sup> and E Burnside	CS, Storefront Commercial	Waive two on-site loading spaces
07-169465 AD	Approximately 100 units, 7,700 sq. ft. retail at NW 26 <sup>th</sup> and NW Vaughn	CS, Storefront Commercial and RH, High Density Residential	Reduce size of two required spaces

The above decisions highlight the frequent requests for adjustments or modifications to loading space requirements for residential and mixed-use projects and frequent decisions that these requests meet the applicable approval criteria. A review of the above chart shows that it is common for smaller mixed-use projects to receive approval to waive the loading space requirement altogether, while larger projects may receive approval to reduce the required number and/or size of loading spaces. Inclusion of this chart as part of this decision is not intended to indicate that any proposal to waive or alter loading space requirements for mixed-use projects will ultimately receive approval. Rather, the chart demonstrates that alternatives are frequently considered which equally or better meet the purpose of the Zoning Code regulations. In this case, the proposal to waive one on-site loading space and reduce the size of the other for the redevelopment of a site with a mixed-use building containing a small amount of retail space and 51 residential units equally meets the purpose of the Zoning Code regulations. Plans to provide 34 on-site parking spaces for the residential units also contributes to the conclusion that the proposal to waive one required on-site loading space and reduce the size of the other equally meets the purpose of the regulation.

Letters received concerning the Adjustment request addressed issues concerning traffic, safety, the availability of on-street parking and potential transportation improvements. As

the Zoning Code applies on private property, not within the public right-of-way, it is not possible to condition public right-of-way improvements as part of the approval of this Adjustment request. However, as previously noted, all transportation-related suggestions and concerns were forwarded to PDOT and the reviewer is in the process of setting up a meeting between neighborhood officials and PDOT traffic calming staff. The applicant has indicated a willingness to participate in these discussions as well. The PDOT response summarized above addresses concerns with the location of the access to the proposed loading space and states that the Adjustment request relates to the number and size of the proposed loading space, not the location of the access which falls under the review of PDOT not the Zoning Code. The PDOT response states that were no Adjustment requested as part of this project and two full-sized loading space proposed, a location of the access as far from the SE 20<sup>th</sup> Avenue and SE Hawthorne Boulevard intersection as possible would be requested as is currently shown on the plans. Limitations to the hours of delivery are not conditioned as part of this review because of difficulties enforcing such a requirement and the limited amount of retail space proposed which already, in effect, limits deliveries.

Based on the information above, a reduction to the number of required on-site loading spaces from two to one and a reduction to the size of the one on-site loading space to 26 feet in length and 8 feet in width, equally meets the purpose of the regulation. This criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** As mentioned above under the PDOT response to the Adjustment request, the Transportation System Plan classifies SE Hawthorne Boulevard in this location as a District Collector Street, Major transit Priority Street, City Walkway, City Bikeway, Truck Access Street, Major Emergency Response Street, and a Community Main Street. SE 20<sup>th</sup> Avenue is designated in the City's TSP as a Local Service traffic street, Transit Access Street, and a City Walkway. The PDOT reviewer examined the proposal to reduce the number and size of the required loading spaces and found it to be consistent with the adopted street designations. It is also important to note that a 4-foot dedication is required along the SE 20<sup>th</sup> Avenue frontage of the site which will improve its function as a City Walkway.

One neighbor response stated that "auto-oriented uses" are discouraged from using Local Service Streets for access and commercial vehicles should not use Local Service Streets. The PDOT response clarifies that both the commercial and residential components of the building would not be considered "auto-oriented" and therefore that concern is not applicable. The response also states that the City's TSP "says that 'Local Service Traffic Streets are intended to distribute local traffic and provide access to local residences and commercial uses'" therefore this concern is also not applicable. The PDOT response also states that "the proposed driveway access to SE 20<sup>th</sup> is consistent with the Local Service traffic street designation in the City's TSP and PDOT finds the proposed SE 20<sup>th</sup> Avenue driveway to be the most appropriate driveway location to serve the proposed site".

The site is zoned CS (Storefront Commercial). The CS zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone allows a full range of retail, service and business uses with a local and regional market area. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged. Both retail and residential uses are allowed by right in the CS zone. The proposal does not conflict with the zoning designation of the site as the project will promote a storefront character which is pedestrian-oriented.

Based on the above information, this criterion is met.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** This land use review includes two conditions of approval which are intended to mitigate for the requested Adjustment to reduce the number and size of the required on-site loading spaces. As no on-site parking is required, the project could potentially be redesigned so that two full-sized loading spaces were provided. This would, however, likely reduce the amount of on-site parking for the residential units. Findings under Criterion A state that a severe reduction in the amount of on-site parking would have a much greater impact on the residential area than a reduction in the number of on-site loading spaces and/or create less efficient use of the parking garage. This is especially true considering the relatively small amount of retail tenant space proposed. In order to ensure that the project provide as much on-site parking (and efficient use of the space within the parking garage) a condition of approval has been included with this review which requires a minimum on-site residential parking ratio of .56 parking spaces per 1 residential dwelling unit. In order to further ensure that residential parking and vehicle needs are thoroughly considered, another condition of approval has been added with this review which requires that the applicant explore the possibility of providing a car share (ZipCar) for the residents. As ZipCar typically does not allow its vehicles to be located in locked garages, this evaluation shall consider an on-site car share vehicle or, through PDOT, the designation of an on-street parking space along the frontage of the site as a designated car share space. The HAND letter requested that consideration be given to providing as much on-site bicycle parking as possible. Submitted plans show that a separate room in the parking garage is designated to secure long-term bicycle parking. This room can be accessed by both the commercial or residential tenants. It is important to note that no ground floor long-term bicycle parking is required for the residential tenants because in-unit bicycle storage meets Zoning Code requirements for long-term bicycle parking. Based on this information, staff finds that the amount of ground-floor, secure long-term bicycle parking is appropriate and further mitigation through additional bike parking cannot be conditioned as part of this review. Many letters suggested improvements to the transportation system and public right-of-way as mitigation for the proposed Adjustment. As previously stated, the Zoning Code only applies on private property and therefore improvements in the public right-of-way cannot be conditioned as mitigation. However, the applicant has expressed a willingness to attend a meeting being organized by PDOT concerning potential traffic calming measures which could occur along SE 20<sup>th</sup> Avenue. Based on the two conditions of approval included with this land use review, this criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone.
- D.** City designated scenic resources and historic resources are preserved; and
- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resources and resource value as is practical.

**Findings:** Only one adjustment is requested, the site does not contain any identified scenic or historic resources and the site is not located in an environmental zone; therefore, these criterion are not applicable.

## **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**

The applicant proposes one Adjustment to the loading space standards in association with plans to construct a four-story mixed-use building at this site. As noted in this report, the proposal is able to meet the Adjustment approval criteria with approval granted based on the square footage of proposed retail tenant space, the number of residential dwelling units and the conditions of approval which require a minimum ratio of on-site residential parking and

the exploration of providing an on-site or on-street car share vehicle. With approval requiring that the permit drawings substantially conform with the site plan/ground floor plan attached, the request meets the applicable criteria and should be approved.

## ADMINISTRATIVE DECISION

Approval of one Adjustment to 33.266.310 to reduce the required number of on-site loading spaces from two to one and to reduce the required size of the one loading space from 35 feet in depth and 10 feet in width to 26 feet in depth and 8 feet in width, per the approved site plans, Exhibit C-1, signed and dated June 16, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 08-118344 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The project must provide a minimum of .56 on-site residential parking spaces per every 1 residential dwelling unit.
- C. The applicant must explore opportunities to provide a car share (currently known as ZipCar) vehicle for use by the tenants of the building. The location of the car share vehicle may be within the residential parking garage or along the street frontage of the site as evaluated by PDOT.

**Decision rendered by:** \_\_\_\_\_ **on June 16, 2008**

By authority of the Director of the Bureau of Development Services

**Decision mailed: June 18, 2008**

**Staff Planner: Matt Wickstrom**

**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 March 27, 2008, and was determined to be complete on May 14, 2008.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on March 27, 2008.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant 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 July 2, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](http://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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

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

**Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed,* The final decision may be recorded on or after **July 3, 2008 – (the day following the last day to appeal).**
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to:

Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.

- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

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

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

#### **EXHIBITS**

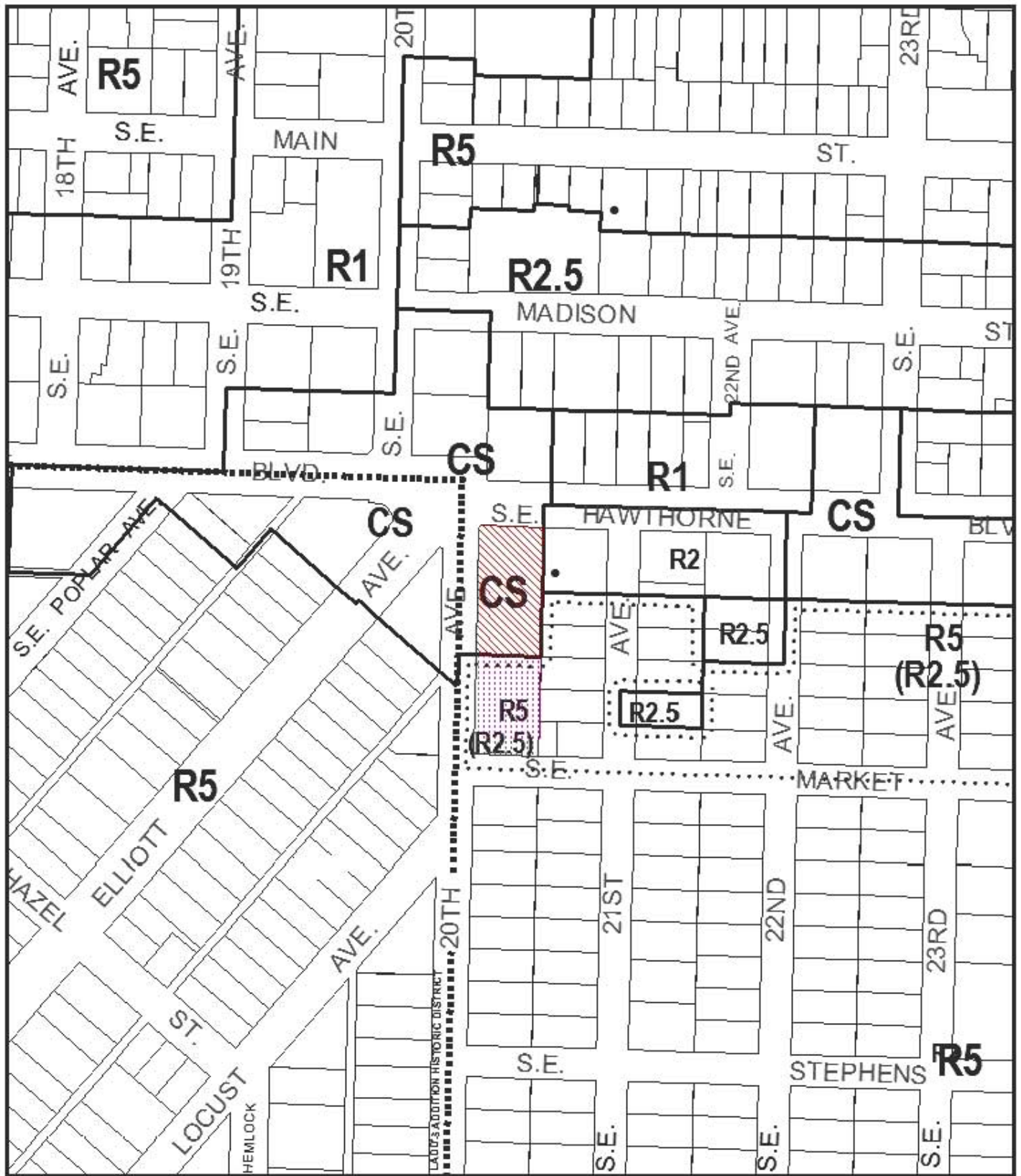
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
  1. Incomplete letter from Matt Wickstrom to Russ Hale dated April 10, 2008
  2. Supplemental Submittal received April 14, 2008
  3. Supplemental Submittal received May 13, 2008
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)
  2. Elevation Drawing (attached)
- D. Notification information:
  1. Mailing list
  2. Mailed notice
- E. Agency Responses:
  1. Development Review Section of Portland Transportation
  2. Life Safety Section of BDS
  3. Tri-Met
  4. Summary Sheet of Bureau Responses
- F. Correspondence:
  1. Walter Keutel, PhD, June 6, 2008, concerns about proposal, traffic impacts and suggestions for right-of-way improvements
  2. Sue Pearce, Hosford Abernathy Neighborhood Association, loading space Adjustment, traffic concerns, proposed transportation-related mitigation, meeting agenda and discussion points
  3. James Barrett, June 6, 2008, analysis of Adjustment approval criteria in relation to request, traffic volume and velocity reports, photo of SE 20<sup>th</sup> Avenue

4. Patricia Schnabel, June 6, 2008, concerns about loading space proposal, overall project and traffic issues
  5. Kina Voelz, June 6, 2008 (6:11 PM), copy of meeting agenda and discussion points
  6. Richard Kozak, MD, June 7, 2008, concerns about traffic, safety and scale of project
- G. Site History Research

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).**





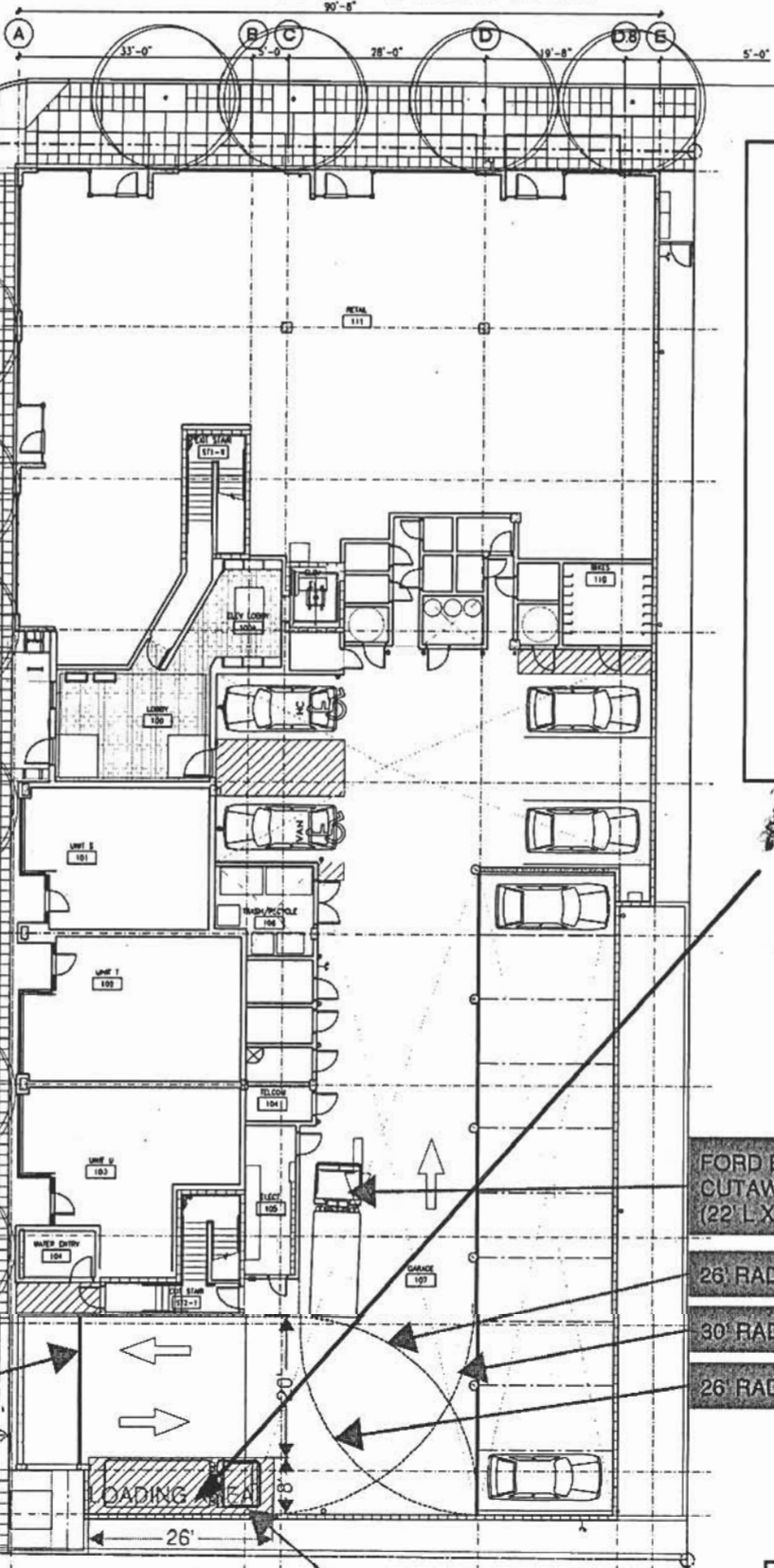
# ZONING

-  Site
-  Also Owned
-  Historic Landmark



File No. LU 08-118344 AD  
 1/4 Section 3232  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E02DA 4500  
 Exhibit B (Mar 31, 2008)

SE HAWTHORNE STREET



Approval to waive one required on-site loading space and to reduce the size of the second on-site loading space to 26 feet in length, and 8 feet in width

Approved location of reduced size loading space

- FORD E-450 CUTAWAY 6.8 L (22' L X 6'8" W)
- 26' RADIUS
- 30' RADIUS
- 26' RADIUS

GARAGE DOOR

4' DEDICATION

GBD-ZONING REQUIREMENT DIAGRAM  
 3.26.08- ADJUSTMENT REQUEST-REVISED 5.12.08

NOTE STRIPED LOADING AREA GETS TRUCK OFF STREET AND SIDEWALK, ALLOWS FOR TURN AROUND IN GARAGE, AND ALLOWS FOR EXITING IN FORWARD MOTION

08-118344 AD

