



City of Portland, Oregon Bureau of Development Services Land Use Services

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Date: May 4, 2009

To: Interested Person

From: Crystal Hitchings, Land Use Services

503-823-7583 / crystal.hitchings@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 09-110412 AD

GENERAL INFORMATION

Applicant: Keith Benjamin

Schwabe, Williamson & Wyatt 1211 SW 5th Avenue, Ste. 1900

Portland, OR 97204

Property Owner: Maw LLC.

P O Box 1337

Couer D'Alene, ID 83816

Site Address: 819 NE 122ND AVE

Legal Description: TL 400 LOT 7, HAZELWOOD

Tax Account No.: R370302010 **State ID No.:** 1N2E34AD 00400

Quarter Section: 2942

Neighborhood: Hazelwood, contact Arlene Kimura at 503-252-9429.

Business District: Gateway Area Business Association, contact Fred Sanchez at

503-256-3910.

District Coalition: East Portland Neighborhood Office, contact Richard Bixby at

503-823-4550.

Zoning: R3a, Multi-dwelling Residential 3,000, with an Alternative Design

Density Overlay Zone

Case Type: AD, Adjustment Review

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

Committee.

Proposal:

The applicant is requesting two Adjustments to the size and height requirements for a new free-standing sign, and is also requesting a third Adjustment to allow the sign to be internally

illuminated. The proposed new sign replaces an existing freestanding sign in the same location, except that the existing sign is 5 feet from the front property line and the proposed sign is 6 feet from the front property line along NE 122nd Avenue. The applicant has stated that the existing, backed sign face is 27.75 square feet on each façade, and its overall size is just over 6 feet tall and just over 9 feet wide. The proposed new sign is a monument style, internally illuminated sign with the illuminated, backed sign façade measuring 24 square feet in size on each façade, and an additional placard of less than 3 square feet announcing the site address located on the sign base. The sign base is 18 square feet in size and will be painted silver in color. The total height of the proposed sign is 7 feet, 2 inches. The sign thickness is 13 5/8th inches deep. The 24-square foot, internally illuminated, portion of the sign will have a dark green background and white lettering to reduce glare. The existing landscaping will remain around the sign monument's base.

Note: The original application requested approval of an internally illuminated sign that was proposed at 32.5 square feet of sign façade with a monument base of 24.3 square feet in size, and a height of 7 feet, 2 inches. The internally illuminated portion of the original proposal was reduced in response to staff concerns, and the location of the site's address was moved from the main sign façade to a non-illuminated placard attached to the sign base.

Title 32, the Sign Code, allows signs for group living situations in residential zones to be up to 10 square feet in size. The R3 Zone has a front building setback of 10 feet. Signs may extend into a required building setback, except that within front building setbacks total sign height may be no more than 3.5 feet tall. Only indirect lighting is allowed in the R zones.

Therefore, the applicant is requesting the following 3 Adjustments to Title 32:

- 1. An Adjustment to **Section 32.32.010.A and Table 32.32-1**, Standards in the Residential Zones, to allow a 24-square foot internally illuminated sign with an additional 7.5 inch by 54 inch, non-illuminated placard attached to the sign base;
- 2. An Adjustment to **Section 32.32.030.F.1**, Freestanding signs and monument signs/Setbacks, to allow a 7-foot, 2-inch tall monument sign located within the front building setback, 6 feet from the front property line; and
- 3. An Adjustment to Section **32.32.010.B**, Sign features, to allow the upper 24-square-foot façade of the sign to be internally illuminated.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The 80,100 square foot site is located on the west side of NE 122nd Avenue, just north of NE Glisan Street. The site is developed with a nursing home and retirement care center. The two-story, "T" shaped residential care facility is located in the center of the lot and surrounded by mature trees and shrubs. Parking is located on the southwest side of the lot, and is accessed from NE 122nd. The site can be entered from either direction on NE 122nd, but vehicles can exit to the south only.

Within the nearby area (200 feet) to the north and west of the site, development includes multi-dwelling residential apartment buildings. Beyond the multi-dwelling development are single-dwelling homes. Directly south and adjacent to the subject site is a nursing home, Menlo Park Healthcare. South of that is a retail store occupied by Schuck's Auto Supply. Development in the nearby area (200 feet) to the southwest is single-dwelling residential. Within the nearby area (200 feet) directly east of the site, along NE 122nd Avenue, are small office and

commercial/retail uses, with single-dwelling residential located on the lots behind the commercial sites. Directly to the southeast is Menlo Park Plaza, a full retail shopping center with associated parking.

NE $122^{\rm nd}$ is a 4-lane, high-use, Major City Traffic Street with a speed limit of 35 MPH. NE $122^{\rm nd}$ is also designated as a Transit Access Street, a City Bikeway and a City Walkway. NE $122^{\rm nd}$ is improved with a 7-foot wide sidewalk on either side with no planting strip. At the south end of the subject site an additional 7-foot right-of-way provides access to a crosswalk. An 8-foot median strip in the center of NE $122^{\rm nd}$ is vegetated with grass and contains several signs warning traffic of pedestrians in the crosswalk.

Signage along the NE and SE 122nd Avenue corridor is a mixture of types, sizes, and heights, with a mixture of lighting styles, depending on the specific commercial zone or the nonconforming status of the particular lots. Most of the lots in the vicinity of the subject site along NE 122nd have existing signage. The signs on the east side of the street, which is commercially zoned, are consistent with the regulations for the commercial zones, namely signs at or exceeding the requested size of 32.5 square feet in area and 7 feet in height. Signs on the west side of the street, which is residentially zoned, appear to exceed the size and height requirements for residentially zoned sites. However, neither commercial nor residential signs within the immediate vicinity of the subject site are internally illuminated, with one exception, and some of them, including the existing sign on the subject site, are not illuminated at all. The one exception to internal illumination is to the Menlo Park Healthcare sign, located in the R3 zone directly south of the subject site. This 24-square foot, approximately 20+-foot tall sign is an existing non-conforming sign. One sign, at the intersection with NE Holladay, has a small moving image feature which is one piece of the larger sign. Further north and south of the subject site, in the commercial zones at the intersections of NE 122nd and NE Glisan, E Burnside, and NE Halsey, internally illuminated signage and awnings are common, and some signs contain moving image components.

Zoning: The site is located in the south end of the R.3a zone, a Multi-dwelling Residential 3,000 zone with an Alternative Design Density Overlay Zone. The multi-dwelling zones are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing. The R3 zone is a low density multi-dwelling zone. It allows approximately 14.5 dwelling units per acre. Density may be as high as 21 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one and two story buildings and a relatively low building coverage. The major type of new development will be townhouses and small multi-dwelling residences. This development is compatible with low and medium density single-dwelling development. Generally, R3 zoning will be applied on large sites or groups of sites. This Group Living use was approved for the site in 1977 and has automatic Conditional Use status.

The Alternative Design Density Overlay Zone provides opportunities to increase density while preserving existing housing and encouraging new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The increased density opportunities of the "a" overlay do not address signage.

The residential zones allow group living businesses to have up to 10 square feet of sign face per site, with a height maximum of 10 feet, with signs in the required front setback allowed at no more than 3.5 feet tall. Only indirect lighting is allowed. For schools, medical centers, religious institutions, community services, commercial outdoor recreation, major event entertainment, and nonconforming commercial or industrial uses in residential zones, the standards of the CN zone apply. The CN zone allows up to 50 square feet of signage with a maximum height of 15 feet, and allows internal illumination.

One lot to the west and directly southwest are single-dwelling zones. Commercial zoning begins one lot to the south and directly east, northeast, and southeast. Single-dwelling residential zoning begins one lot to the east. The subject site fronts on NE 122nd. The entire

east side of NE 122^{nd} in the vicinity of the site is commercially zoned. On the west side of NE 122^{nd} , commercial zoning begins 1,000 feet north and 200 feet south of the subject site. To the north of the subject site, the east side of 122^{nd} Avenue is commercially zoned for over 3,700 feet north of the site, and pockets of residential zoning are mixed with pockets of commercial zoning along the west side of NE 122^{nd} . To the south of the subject site, the east side of 122^{nd} Avenue is commercially zoned for over 4,000 feet south of the site, and pockets of residential zoning mixed with commercial zoning begin along the west side of 122^{nd} Avenue, over 2,000 feet south of the site.

The adjacent and nearby commercial zones are CO2, CG, and CS. The CO2 and CG zones allow up to 200 square feet of signage with a maximum height of 25 feet, and allow internal illumination and changing image sign features. The CS zone allows up to 100 square feet of signage with a maximum height of 20 feet, and allows internal illumination. Freestanding signs are allowed in required setbacks without further height limitation.

Applicant's Statement: The applicant states that increasing the visibility of the sign is necessary to enable people to navigate to the site, especially at night or for those with impaired vision. The applicant states that, while the Firwood Gardens structure is used as a dwelling place for its residents, the day-to-day function is as a commercial use. The applicant cites examples of this commercial use as staff assisting residents in activities of daily living and daily business, including providing opportunities for visitors, accepting deliveries, and advertisement for future or additional residents. The applicant states that, as a commercial use, the site is accessed by automobiles constantly throughout the day, requiring a sign of sufficient proportions and illumination as a necessary way-finding tool, and that a sign that is consistent with commercial uses is appropriate.

<u>Staff note</u>: Group living is a residential use as defined by the Zoning Code. The "commercial" activities cited by the applicant as occurring in this group living facility (advertising to new residents, multiple automobile trips, daily living and business activities such as visitors and deliveries) are the same activities that occur in multi-dwelling residential developments such as those directly adjacent to and nearby the subject site.

Land Use History: City records indicate one prior land use review for this site:

77-017723 MCF, dated November 20, 1977, approved development of the site as an elderly care facility, with conditions intended to retain compatibility with nearby residential uses. The decision states that "There is a continuing need for compatibility of development between the proposed use and adjacent residential properties. Therefore, a site plan showing building location and design, circulation of parking, loading, lighting and signing and the details of screening, landscaping and maintenance shall be subject to Design Review and approval of the Division of Planning and Development, according the Design criteria. The site plan shall be approved prior to the issuance of any permits. The owner shall construct a sidewalk on the 122nd Avenue frontage prior to issuance of a certificate of occupancy."

Agency Review: A "Request for Response" was mailed on March 26, 2009. The following Bureaus have responded with no issues or concerns (Exhibits E.1-E.7):

- Site Development Section of BDS
- Life Safety Bureau
- Fire Bureau
- Bureau of Environmental Services
- Bureau of Transportation Engineering

- Water Bureau
- Bureau of Parks-Forestry Division

Neighborhood Review: A "Notice of Proposal in Your Neighborhood" was mailed on March 26, 2009. One written response has been received from the Neighborhood Association and notified property owners in response to the proposal. The one response was a letter of no concern submitted by the Hazelwood Neighborhood Association.

ZONING CODE APPROVAL CRITERIA

32.38.030 Sign Adjustment Review.

- **A. 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.
- **B. Procedures.** The adjustment procedures stated in Chapter 33.805, Adjustments, apply to sign adjustments. However, the approval criteria of this section are used, rather than of those of Chapter 33.805 of the Zoning Code.
- **C. Approval Criteria**. Sign adjustments will be approved if the review body finds that the applicant has shown that the criteria of Paragraph C.1 or C.2, below are met.
 - **C.1 Area enhancement**. The applicant must meet **both** criteria C.1.a & b and **either** C.1.c. **or** d.
 - **C.1.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 C.1.b** The sign will not create a traffic or safety hazard.

Findings: The subject site is not within a specific plan district or design district. The applicant states that the proposal does not add more signage to the immediate area or increase the size of the subject property's sign, but simply seeks to replace an existing sign with a more visible and functional sign. The request is to replace an existing, non-illuminated sign with an internally illuminated sign that is 3.75 square feet smaller in sign area than the existing sign, and to locate a non-illuminated placard announcing the site address that is less than 3 square feet in size on the sign base.

The site and adjacent sites are residentially zoned and developed. The proposed sign is in close proximity to a number of freestanding signs for multi-dwelling uses that appear to exceed the allowed sign size as set out by residential zoning standards, and which are either indirectly illuminated or not illuminated at all. One 24-square foot sign for a similar residential care facility use (adjacent to the subject site) is internally illuminated.

Across NE 122nd from the site, land is commercially zoned and developed with a number of commercial signs. The majority of signs in the nearby commercial zones (within 200 feet from the subject site) appear to be smaller than what is allowed in those zones. Some are indirectly illuminated and some are not illuminated at all. None of these nearby commercial signs are internally illuminated, although one contains a moving image component. Internally illuminated signs are common in the commercially zoned areas further south and further north at major intersections along NE and SE 122nd.

Staff expressed concerns that the originally requested 32.5 square foot internally illuminated sign would represent a significant increase in illuminated sign area and would significantly increase the visibility of the sign from the street, and thus would increase the street level sign clutter and adversely dominate the visual image of the area. In response to

this concern, the applicant proposed a 24 square-foot internally illuminated sign. According to the applicant, the Neighborhood Association had requested that the business address be included in the sign face, to enhance 911 response capabilities. With the reduced sign size, locating the address within the sign façade in a way that was aesthetically pleasing and consistent with the design selected by the property owner became problematic. Therefore, the applicant proposed that the address be included as a non-illuminated placard attached to the monument base. The placard is 7.5 inches in height and 54 inches long, which is less than 3 square feet.

The lower height and monument style of the proposed sign is more consistent with residential zones than taller, pole-style signs which are often found in commercial zones, and which occurs at the adjacent Menlo Park Healthcare site. The internally illuminated portion of the proposed sign is approximately 3.75 square feet smaller than the existing sign, rather than 4.75 feet larger, as originally proposed. With the non-illuminated address placard, the overall size of the proposed sign is about 0.75 square feet smaller than the existing sign. The proposed sign is about 1 foot taller than the existing sign, but is set back 1 foot further from the front property line than the existing sign (the new location will be 6 feet behind the sidewalk and 14 feet from the street). The illuminated and non-illuminated portions of the sign have a dark background with light lettering, a design solution recognized as successful in reducing glare from internal illumination, and a color choice similar to that of the existing sign. The visibility gained by internal illumination is offset by the reduced size of the sign. The placard holding the site address will be visually separated from the larger sign area, and will not be illuminated, and therefore does not significantly contribute to the overall perception of sign area. The address placard located on the sign base also helps to break up the visual bulk of the base. The base will be painted aluminum in color. The existing landscaping will be retained and will screen the lower portion of the monument sign base. Without this landscaping to screen the sign's monument base, the base would appear as similar in size to the sign façade, and would nearly double the perceived size of the sign. For this reason, a condition of approval (condition B) is warranted to insure that the existing landscaping shall be retained or, if it cannot be saved, shall be replaced with shrub screening consistent to screen the lower 2 feet of the monument base.

The Portland Bureau of Transportation has reviewed the proposal and has stated that there are no concerns with the requested Adjustments. The proposed sign is located an additional 1 foot further back from the street than the existing sign, further increasing visibility to vehicles entering and exiting the sight. The proposed additional height of the sign does not decrease visibility from existing conditions. The proposed sign colors help reduce glare from internal lighting.

Based on the reduction in size of the illuminated portion of the sign that is characteristic of the size of both commercial and residential signs in the area, and the design that utilizes a dark background with light lettering to reduce glare from that internal illumination, and with condition B that requires the retention of existing landscaping, the proposed sign will not significantly increase the sign clutter or adversely dominate the visual image of the area, and this criterion is met.

- **C.1.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.
- **C.1.d**. The adjustment will allow a sign that is more consistent with the architecture and development of the site.

Findings: The applicant chose to address criterion C.1.d. Development of the site includes all improvements on a site.

The site is developed with a group living residential structure and associated parking/loading, landscaping, and walkways that resemble nearby multi-dwelling residential development.

The applicant states that, while the Firwood Gardens structure is used as a dwelling place for its residents, the day-to-day function is as a commercial use. The applicant also states that increasing the visibility of the sign is necessary to enable people to navigate to the site, especially at night or for those with impaired vision. The applicant further stated that some of the development (landscaping, buildings, other signs) on or adjacent to the site impedes visibility of the sign, requiring a sign that is more readily visible than the existing sign.

Group living is a residential use as defined by the Zoning Code. The purpose statement for the Group Living regulations, Zoning Code Section 33.239.010, ensures that group living uses are compatible with the character of residential and commercial areas. The "commercial" activities cited by the applicant as occurring in this group living facility (advertising to new residents, multiple automobile trips, daily living and business activities such as visitors and deliveries) are the same activities that occur in multi-dwelling residential developments such as those directly adjacent to and nearby the subject site. A commercially proportioned sign is not compatible with the residential development of the site. However, given that most signs on nearby residentially zoned sites are larger than is allowed in residential zones, and given that many of the signs on nearby commercially zoned sites appear to be smaller than is allowed in those commercials zones, a sign that is compatible with both residential and commercial development is most appropriate for the subject site.

The proposed illuminated sign is somewhat smaller in sign façade area than the existing sign and is consistent in size with other existing signs in the nearby vicinity. The proposed sign is of a dark background with light lettering, a solution that reduces glare from the internal lighting and which remains consistent with the existing sign coloring. The smaller, non-illuminated placard does not contribute significantly to the overall sign area, and its size and location, separate from the lighted portion of the sign, meets the sign standards for residential zones, and therefore is compatible with the residential development of the site. The proposed sign is of a monument style, which helps to visually anchor the sign to the site and which is more consistent with a residential zone than a taller pole-mounted sign, such as the one located on the adjacent Menlo Park Healthcare site. The existing landscaping will be retained or replaced by Condition B, as noted under Criterion C.1.a and C1.b above, and retention of this landscaping will also help anchor the sign to the site, screen a portion of the monument base, and reduce the overall perception of sign size, further insuring that the sign is more consistent with the residential use and zoning of the site.

The reduction in square footage of the internally illuminated portion of the sign from the existing sign, the choice of dark background and light lettering to reduce glare, the small size of the address placard on the sign base, and the retention of landscaping around the sign are design elements which result in a sign that remains consistent with the residential use of the site while providing the increased visibility typical of the nearby commercial zones and desired by the applicant. This criterion is met.

C.2 Site difficulties. If there are unusual site factors that preclude an allowed sign from being visible to the street immediately in front of the site, an adjustment will be granted to achieve the visibility standards of Subparagraph d. This adjustment is not intended to be used to make signs visible to other streets and rights of ways or to freeways. Site difficulties may include the sign face being blocked due to topography of the site, existing development or landscaping on the site, or from abutting development or landscaping. This set of adjustment criteria is generally intended for freestanding and projecting signs and allows greater flexibility in placement of the sign. The adjustment will be approved if all of the following criteria are found to be met:

- **a.** There is no reasonable place on the site for an allowed sign without an Adjustment to achieve the visibility standards of Subparagraph d below;
- **b.** If the proposed sign extends into the right-of-way, the sign will not create a traffic or safety hazard;
- **c.** Of potential Adjustments to meet the visibility standard of Subparagraph d., the request is the most consistent with the surrounding development and sign patterns; and
- **d**. The Adjustment is the minimum needed for a sign to meet the following visibility standards:

Posted Road Speed

Visibility To Travel Lanes On The Street In Front Of The Site

35 mph or less

200 feet

40-50 mph

300 feet

55 mph or more

400 feet

Findings: In order for a sign adjustment to be approved, an applicant must show that **either** the criteria of C.1 (Area Enhancement) **or** the criteria of C.2 (Site Difficulties) are met. Per the language of the criterion, this set of adjustment criteria is generally intended to allow for greater flexibility in *placement of the sign*. The language indicates that this set of criteria is intended to be used in situations where an allowed <u>location</u> would be blocked by site topography, existing development or landscaping on the site, or abutting development or landscaping. The applicant is not requesting an Adjustment for an alternative *placement* of the sign, but is requesting an Adjustment to size, height, and illumination. Therefore, this criterion is not applicable and the proposal was reviewed according to Criterion C.1.

Staff Note: Although the applicant's written information primarily addresses the criteria of C.1 (Area Enhancement), the applicant also states that visibility on the site is limited due to existing landscaping on the subject and adjacent sites, structures on adjacent sites, and existing signage both in the right-of-way and on adjacent sites. The applicant states that the frequencies of these obstructions, combined with the posted 35 MPH speed limit on NE 122ⁿ, make visibility of anything but the proposed sign very difficult from 200 feet away. However, no information was submitted to support this claim. A second narrative submittal from the applicant states that the combination of landscaping, buildings, street signage, the pedestrian median and automobile speed all contribute to site difficulties of the location, and lead to the site's only suitable location being the proposed position of the existing sign partially within the front setback (however, the application does not propose to retain the current position of the existing sign, but proposes to move the proposed sign further back on the site). The applicant further states that those site difficulties limit any sign except that proposed from being visible, especially during evening hours. Again, no documentation was submitted to support this. The applicant states that flexibility in the placement of the sign does apply to the front setback issues, and because the site's visibility limitations strengthen the overall appropriateness of the request. However, the Adjustments requested are not to sign location but to maximum sign height and sign area, and to the allowed method of sign lighting.

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

Sign adjustments are subject to the criteria of Section 32.38.030.C.1 (Area enhancement) or the criteria of Section 32.38.030.C.2 (Site difficulties). Although the applicant submitted information to address both Criterion C.1 and Criterion C.2, Criterion C.2 is not applicable to

this request. Therefore, the proposal was reviewed by the applicable review criteria of C.1. The request is to allow a freestanding sign to be approximately 17 square feet larger in size and 3.5 feet taller in height than is allowed in the R3 zone, with 24-square feet of that sign being internally rather than indirectly illuminated. The main sign area is reduced in size from the existing sign, the setback from NE 122nd is increased, the sign is designed in a monument style with a dark background and light lettering to reduce glare, and the existing landscaping around the sign base will be retained or replaced (Condition B). For these reasons, the proposed new sign will not increase street level sign clutter or pose a traffic safety hazard and remains consistent with the residential development of the site. The applicable approval criteria are met and this Adjustment should be approved.

ADMINISTRATIVE DECISION

Approval of the following three Adjustments to Title 32, in significant conformance with the approved site plans, Exhibits C-1 through C-2:

- 1. An Adjustment to **Section 32.32.010.A and Table 32.32-1**, Standards in the Residential Zones, to allow a 24-square foot internally illuminated sign with an additional 3-foot, non-illuminated placard attached to the sign base;
- 2. An Adjustment to **Section 32.32.030.F.1**, Freestanding signs and monument signs/Setbacks, to allow a 7-foot, 2-inch tall monument sign located within the front building setback, 6 feet from the front property line; and
- 3. An Adjustment to Section **32.32.010.B**, Sign features, to allow the upper 24-square-foot façade of the sign to be internally illuminated.

signed and dated April 30, 2009, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (Condition B) 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 09-110412 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Existing landscaping around the existing sign base shall be retained. If it is not possible to retain the landscaping during construction of the proposed sign, or if landscaping is damaged, destroyed, or removed during construction, said landscaping shall be replaced. Replacement landscaping shall consist of low evergreen shrubs with a mature height of at least 18 inches, and may not be on the City of Portland's Nuisance or Prohibited plant lists.

Staff Planner: Crystal Hitchings

Decision rendered by: on April 30, 2009.

By authority of the Director of the Bureau of Development Services

Decision mailed: May 4, 2009

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 February 24, 2009, and was determined to be complete on March 24, 2009.

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 February 24, 2009.

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 requested that the 120-day review period be extended by 8 days (Exhibit #G.4).

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 May 18, 2009 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.

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 May 19, 2009 (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.

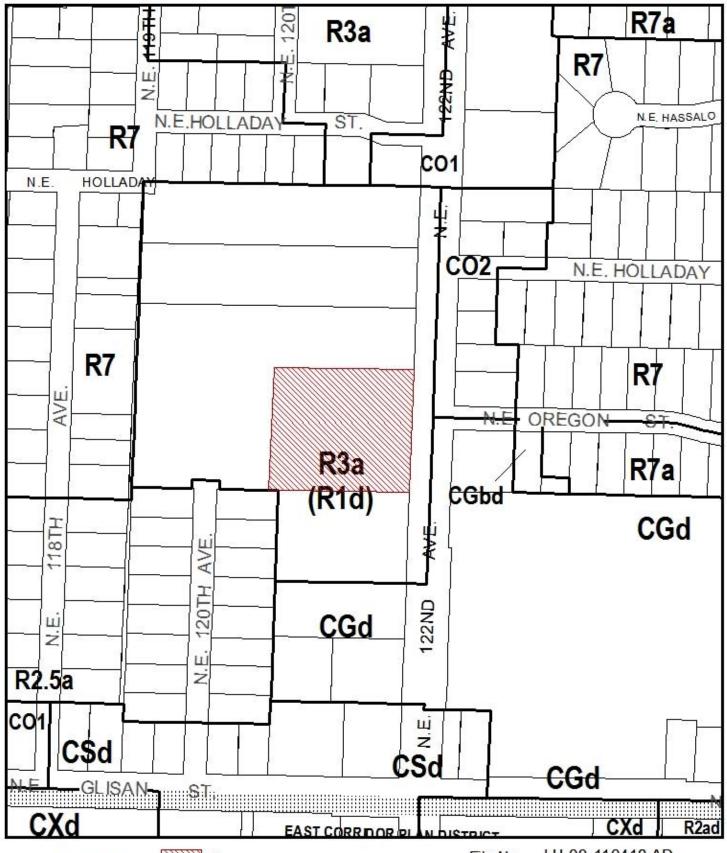
Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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.

- A. Applicant's Statement
 - 1. Original statement
 - 2. Reduced sign proposal
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Sign elevation (attached)
 - 3. Site and vicinity photos
 - 4. Nearby sign photos
 - 5. Internally illuminated sign locations
 - 6. Site and vicinity photos (by staff)
 - 7. Original site plan
 - 8. Original elevation
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Site Development Review Section of BDS
 - 2. Life Safety Bureau
 - 3. Fire Bureau
 - 4. Bureau of Environmental Services
 - 5. Bureau of Transportation Engineering and Development Review
 - 6. Water Bureau
 - 7. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Arlene Kimura, Hazelwood Neighborhood Association; April 16, 2009; no concerns
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete letter
 - 4. Hold 120-day Clock Request
 - 5. Area zoning map
 - 6. Aerial photo

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).



ZONING Site



File No. <u>LU 09-110412 AD</u> 1/4 Section _____ 2942,2943 Scale 1 inch = 200 feet 1N2E34AD 400 State Id . В (Feb 26,2009) Exhibit _



