



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
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Date: September 6, 2012
To: Interested Person
From: Staci Monroe, Land Use Services
503-823-0624 / staci.monroe@portlandoregon.gov

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 the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 12-148546 DZ –PARKING LOT LIGHTING

GENERAL INFORMATION

Applicant: Jim Preston (store representative) / Fred Meyer Stores, Inc.
3800 NE 22nd Avenue / Portland, OR 97202

Nathan Benderson (property owner)
1014 Vine Street, 7th Floor / Cincinnati, OH 45202

Representative: Ryan Schera (architect), 503-224-9560 / Group Mackenzie
1515 SE Water Ave, Suite 100 / Portland, OR 97214

Site Address: 3030 NE WEIDLER STREET

Legal Description: BLOCK 1 LOT 1, HOLLYWOOD WEST FRED MEYER; BLOCK 1 LOT 2, HOLLYWOOD WEST FRED MEYER

Tax Account No.: R398400010, R398400030

State ID No.: 1N1E25CC 19300, 1N1E36B 00100

Quarter Section: 2833

Neighborhood: Sullivan Gulch, contact Carol Gossett at 503-449-1253.

District Coalition: Northeast Coalition of Neighborhoods, Paige Coleman at 503-823-4575.

Zoning: CG – General Commercial zone

Case Type: DZ – Design Review

Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:

The applicant seeks Design Review approval for alterations to existing lighting in the parking lot at the Hollywood Fred Meyer Store. The site recently went through a Design Review for an exterior remodel to the store, as well as, some site improvements to landscaping and the park under land use review 11-157043 DZ. Changes to the light fixtures in the parking lot were not included in this prior review, thus the current application.

The alterations include replacing the light fixture lamps on 23 of the existing light poles throughout the parking area. The poles will remain and new lamp heads will be installed, some with visors along the perimeter of the site to focus the illumination and limit glare on the

adjacent neighborhood. The new fixtures will be the Cooper Lighting Industries' Galleria (square) model in bronze to match the existing poles. The remainder of the site lighting, which includes the shorter pedestrian lights along the walkways and in the park will receive a new bulb and be painted.

Although the site is not within a Design Overlay zone, prior land use reviews, specifically PC file 7517-PA and Design Review/Superblock Review DZ 115-88/SB 4-88, required future exterior building and site alterations to go through a design review.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of PC File 7517-PA. Specific to design review is condition 15 of that approval:

15 - Prior to obtaining a building permit, the applicant shall apply and obtain approval for design review of the site pursuant to Chapter 33.62 (Design Zone) of the zoning code. The proposed store's single level, size and amount of parking shall not be subject to design review. The design guidelines to be applied by the Design Commission in making its decision shall be as indicated below, however only items 1 and 2 are applicable to the current proposal:

1. Protect, to the extent practical, the surrounding development from noise, heat and glare provides by on-site activities.
2. Protect from detracting from the positive visual characteristic of surrounding residential development.
3. Protect the safety and privacy of adjacent residential development through use of screening and landscaping.
4. Provide on-site landscaping to reduce conflicts with the residential character of the Sullivan's Gulch neighborhood, to shade and cool parking area to visually break up large expanses of parking.
5. Develop a building design which extends the architectural character of the Hollywood Commercial District to the site.

The proposal must also comply with any relevant design review conditions of approval imposed by the 1989 Design Review/Superblock Review, DZ 115-88/SB 4-88. The Design Commission approved (and was upheld at City Council) the proposal, and the only relevant condition is as follows:

2(H) – Exterior lighting shall be reviewed and approved by Planning Bureau staff.

ANALYSIS

Site and Vicinity: the site contains about 17.5 acres, located generally south of NE Weidler, west of NE 32nd and the Banfield Freeway (I-84), and east of NE 28th. The site is in the southeast corner of the Sullivan's Gulch area. Sullivan's Gulch is largely a residential neighborhood, though at one time it contained more industrial areas as well. Nearby to the north is the Broadway commercial corridor, while to the east is the Hollywood Commercial District.

The Fred Meyer Building was constructed in 1990 and is a one-story building of approximately 205,000 SF, counting all fenced exterior areas, approved additions, and interior tenant spaces. It is a tilt-up concrete structure with synthetic stucco finish. Parking is located at every side of the building with the majority on the north, east, and west sides. There are approximately 856 parking spaces.

Zoning: The General Commercial (CG) zone is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer commercial areas. The zone allows a full range of retail and service businesses with a

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

The Heavy Industrial (IH) zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where all kinds of industries may locate including those not desirable in other zones due to their objectionable impacts or appearance. The development standards are the minimum necessary to assure safe, functional, efficient, and environmentally sound development. Minimum lot area is between 10,000 and 20,000 square feet.

Land Use History: City records indicate that prior land use reviews include the following:

- **LUR 99-00603:** A 1999 Design Review approval to add two stockroom additions, replace existing bottle return on site and expand outdoor garden center parking.
- **LUR 99-00846:** A 1999 Design Review approval to add two greenhouse structures (3,424 SF) to outdoor sales area.
- **11-157043 DZ – A** 2011 Design Review approval for a building remodel, addition and site improvements.

Agency Review: No agency review was required given the minor scope of the project.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 13, 2012. One written response has been received from a notified property owners in response to the proposal.

- Andrea Meyer, July 26, 2012, concerns with the quality of the site plan provided in the Notice of Proposal, a request that visors be added to the existing fixtures in the park, and to replace the shrubbery that has expired along NE 28th between Halsey and Weidler (Exhibit F-1).

Staff Response: Staff provides the following response:

- For large sites it difficult to get legible details on an 8.5"x11" sized paper, which is what the Notice of Proposals are printed on for mailings. At the top of each Notice is a link to an electronic version of the Notice of Proposal and attachments, which can be enlarged to viewing finer details. Alternatively, the file, which contains larger plan sets, is available for viewing and the process to do so is also stated in the Notice of Proposal.
- The project does not include replacing the light fixtures in the park. Concerns regarding glare or light spillover in excess of the 0.5 footcandles allowed along the property edges by Zoning Code Chapter 33.262 (Off-Site Impacts) may be directed towards Code Compliance Services at 503-823-CODE.
- Expired required landscaping must be replaced and maintained per Zoning Code Section 33.248.040.D. The applicant and owner are aware of this requirement and also of the potential code compliance process.

ZONING CODE APPROVAL CRITERIA

Chapter 33.825 Design Review

Section 33.825.010 Purpose of Design Review

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

Section 33.825.055 Design Review Approval Criteria

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

Findings: The site requires Design Review approval as a condition of approval in a prior land use case. This proposal must comply with Chapter 33.825, Design Review, of the Portland Zoning Code.

Staff has considered all conditions of approval from prior land use cases and has addressed only those criteria considered applicable to his project. While design review is required by City Ordinance 158573 (PC File 7517-PA), dated 1985, there are also relevant conditions of approval from the later land use case DZ 115-88/SB 4-88 in 1988.

Approval Condition 15 of PC File 7517-PA:

Prior to obtaining a building permit, the applicant shall apply and obtain approval for design review of the site pursuant to Chapter 33.62 (Design Zone) of the zoning code. The proposed store's single level, size and amount of parking shall not be subject to design review. The design guidelines to be applied by the Design Commission in making its decision shall be as indicated below, however only items 1 and 2 are applicable to the current proposal and have been addressed in the findings below:

1. Protect, to the extent practical, the surrounding development from noise, heat and glare provides by on-site activities.
2. Protect from detracting from the positive visual characteristic of surrounding residential development.

Findings: The existing fixtures to be replaced consist of a glass cover that surrounds the bulb producing illumination at 360 degrees. The new light fixtures consist of aluminum housing with flat glass on the underside that is designed to produce zero measurable light at or above 90 degrees of the ground. In addition, visors will be placed on the fixtures abutting the property lines, specifically along the west and north sides adjacent to the houses. The applicant has provided a photometric plan indicating the illumination along all edges of the subject property will not exceed 0.5 footcandles, which is the limit established in the Off-Site Impacts chapter of the Zoning Code (Section 33.262.080). After installation, if the parking lot illumination does not appear to be contained on the site, Code Compliance Services may be contacted to verify the illumination at the property edges (503-823-CODE). As proposed, the design of the fixtures and installation of visors will ensure the illumination is not a nuisance on the adjacent properties. Overall, the lighting alterations will be a significant improvement over the current fixtures and will not visually detract from the positive characteristics of the surrounding neighborhood. *This criterion is met.*

The proposal must also comply with any relevant design review conditions of approval imposed by the 1989 Design Review/Superblock Review, DZ 115-88/SB 4-88. The Design Commission approved (and was upheld at City Council) the proposal, and the only relevant condition is as follows:

- 2(H) – Exterior lighting shall be reviewed and approved by Planning Bureau staff.

Findings: The lighting changes proposed include replacing the fixtures atop the existing 23 parking lot light poles throughout the site with more modern and efficient fixtures. The new fixture, Cooper Industries' Galleria Square, is aluminum with a dark bronze finish. The other pedestrian lights along the walkways and park will be re-lamped with a new bulb and painted dark bronze to match the new fixtures. The two styles provide some variety and are appropriate to the lighting purposes. The pedestrian scaled lights to be refurbished are more decorative, double-headed fixtures.

The new parking lot fixtures are more than 30' up in the air and therefore the simple modern design is suitable and more efficient. As mentioned above, the style of the new fixture with the flat glass and visors will focus the lighting downward to only illuminate the parking area and minimizes glare and spill over light. *This criterion is therefore met.*

DEVELOPMENT STANDARDS

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

CONCLUSIONS

The design review process exists to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The light fixture design, visors and condition to verify illumination will ensure glare and impacts on the adjacent properties are negligible. As indicated above, the proposal meets the applicable design guidelines and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of 23 new light fixtures atop existing parking lot light poles for the Hollywood Fred Meyer per the approved site plans, Exhibits C-1 through C-6, signed and dated 9/4/2012, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.6. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 12-148546 DZ. No field changes allowed."

Staff Planner: Staci Monroe



Decision rendered by: _____ **on September 4, 2012**

By authority of the Director of the Bureau of Development Services

Decision mailed: September 6, 2012

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 June 26, 2012, and was determined to be complete on **July 11, 2012**.

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 June 26, 2012.

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 Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on September 20, 2012** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Design Commission 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 Design Commission 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 **September 21, 2012**.
- 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
 1. Project Summary & Responses to Approval Criteria
 2. Photo of Light Fixture to be replaced
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Proposed Photometric Plan
 3. Existing Photometric Plan
 4. Electrical Plan
 5. Site Electrical Detail
 6. Proposed Light Fixture Detail
- D. Notification information:
 1. Mailing list
 2. Mailed notice

E. Agency Responses: None.

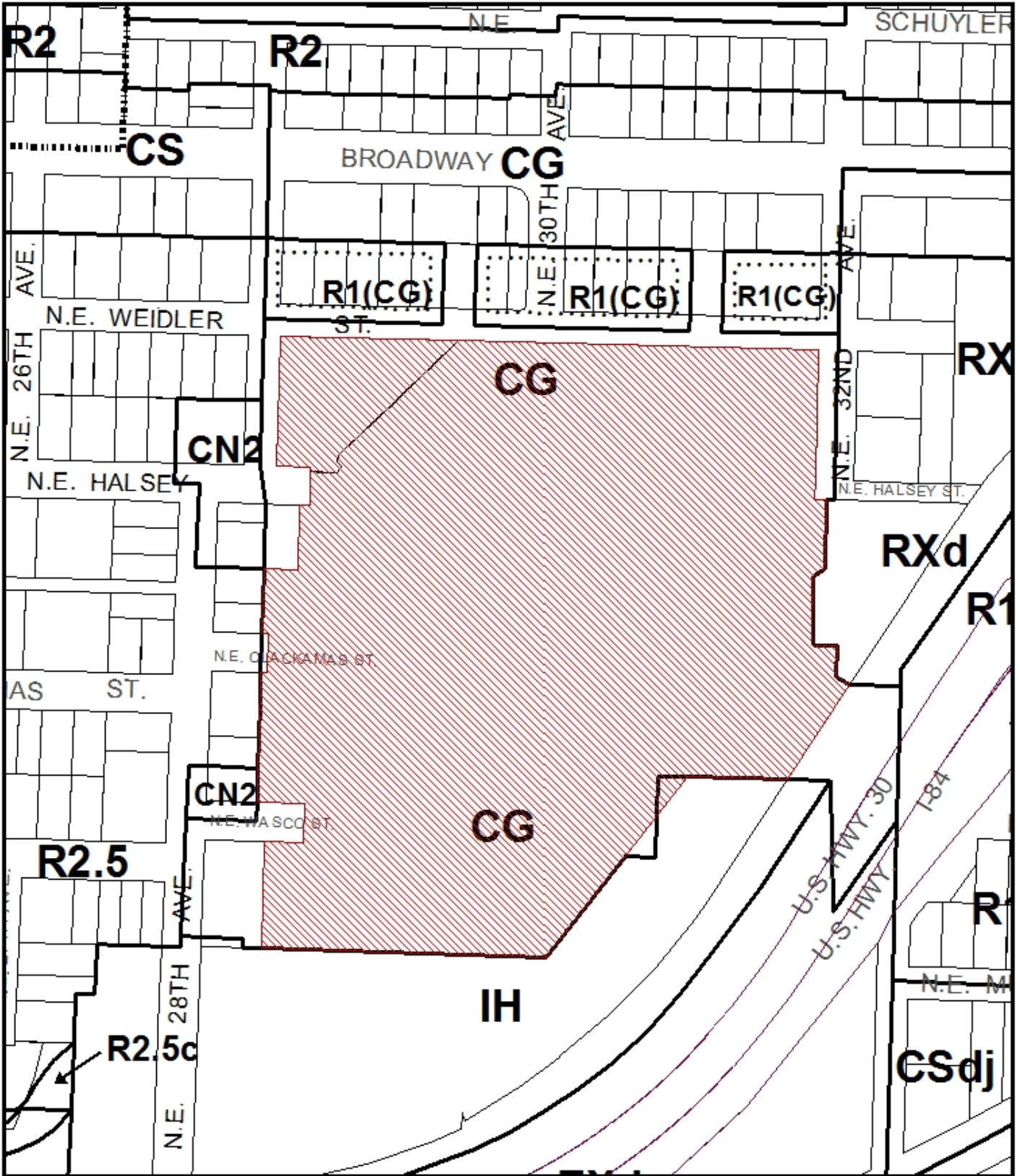
F. Correspondence:

1. Andrea Meyer, July 26, 2012, concerns with the quality of the site plan provided in the Notice of Proposal, a request that visors be added to the existing fixtures in the park, and to replace the shrubbery that has expired along NE 28th between Halsey and Weidler.

G. Other:

1. Original LU Application

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



ZONING

 Site



File No.	<u>LU 12-148546 DZ</u>
1/4 Section	<u>2833,2933</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E36B 100</u>
Exhibit	<u>B (Jun 29,2012)</u>

MACKENZIE
 ARCHITECTURE
 LAND USE DESIGN
 1000 NE 10TH AVE
 VANCOUVER, BC V6L 2K6
 TEL: 604.681.1111
 FAX: 604.681.1112

FredMeyer
 40000 HOLLYWOOD
 3000 NE WEIDLER
 PORTLAND, OR 97232
 NORTHWEST DECOR
 REMODEL



NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	9.4.12
2	ISSUED FOR PERMIT	9.4.12
3	ISSUED FOR PERMIT	9.4.12
4	ISSUED FOR PERMIT	9.4.12

SHEET TITLE:
 DEMOLITION -
 SITE PLAN

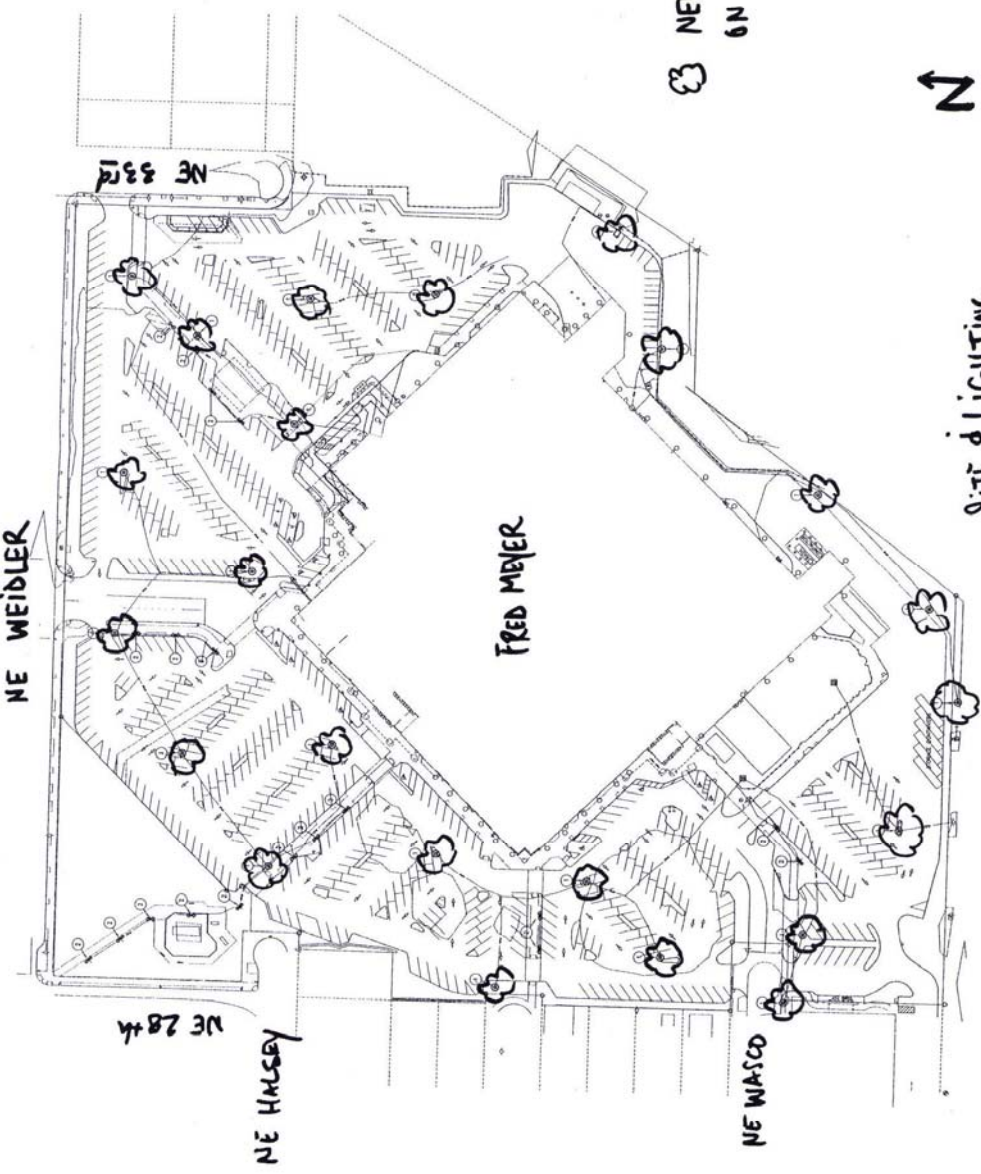
LUL2-148546 DZ
 EX.C-1

ED3

2010/09/01/2012

CONSTRUCTION SET - 4.3.12

KEY NOTES:
 1. DEMOLITION OF EXISTING AND NEW CONSTRUCTION SHALL BE SHOWN ON THIS SHEET.
 2. EXISTING AND NEW CONSTRUCTION SHALL BE SHOWN ON THIS SHEET.
GENERAL NOTES:
 1. DEMOLITION OF EXISTING AND NEW CONSTRUCTION SHALL BE SHOWN ON THIS SHEET.
 2. EXISTING AND NEW CONSTRUCTION SHALL BE SHOWN ON THIS SHEET.



NEW LIGHT FIXTURES
 ON EXISTING POLES



SITE & LIGHTING
 PLAN

Approved*
 City of Portland - Bureau of Development Services
 Date 9.4.12
 Planner [Signature]
 * This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.