



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

Charlie Hales, Mayor  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** April 12, 2013  
**To:** Interested Person  
**From:** Douglas Hardy, Land Use Services  
503-823-7816 / [Douglas.Hardy@portlandoregon.gov](mailto:Douglas.Hardy@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 13-108558 AD**

#### **GENERAL INFORMATION**

**Applicant:** Peter Collins / Goodwill Industries of the Columbia-Willamette  
1943 SE 6th Avenue / Portland OR 97212

**Representative:** Jennifer Rinkus / Baysinger Partners Architecture  
1006 SE Grand Avenue, #300 / Portland, OR 97214  
503-237-6190

**Site Address:** 12250 NE Halsey Street

**Legal Description:** Partition Plat 2012-27, Lot 1  
**Tax Account No.:** R651537  
**State ID No.:** 1N2E35BB 701  
**Quarter Section:** 2943  
**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  
**Plan District:** None  
**Zoning:** CG – General Commercial  
**Case Type:** Adjustment (AD)  
**Procedure:** Type II, Administrative decision with appeal to Adjustment Committee

#### **PROPOSAL**

The applicant proposes constructing a new, two-story medical office building (approximately 21,605 square feet in area) in the southwest corner of the property. The site is currently developed with two other buildings, and is bounded by NE Halsey Street to the north, NE 122<sup>nd</sup> Avenue to the west and NE Wasco Street to the south. The proposed building will have frontage along both NE 122<sup>nd</sup> Avenue and NE Wasco Street.

The Zoning Code establishes maximum building setbacks along transit streets. Both NE 122<sup>nd</sup> Avenue and NE Halsey Street are designated transit streets. For the subject site, the maximum building setback regulation requires that 100% of the cumulative length of all ground level

building walls be within 10 feet of one of these two transit streets, and that 50% of the cumulative length of all ground level building walls be within 10 feet of the other transit street. Existing development on the site meets the maximum setback standard on both streets. With the proposed medical office building, the 50% standard will still be met on both frontages, but the 100% standard will not be met on either street. The applicant is therefore requesting an Adjustment to reduce the cumulative length of all ground level building walls that must be within the maximum building setback from 100% to 71% along NE 122<sup>nd</sup> Avenue.

**RELEVANT APPROVAL CRITERIA**

In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Chapter 33.805.040.A-F of the Portland Zoning Code.

**ANALYSIS**

**Site and Vicinity:** The 141,763 square foot site is located at the southeast corner of NE Halsey Street and NE 122<sup>nd</sup> Avenue. Northeast Wasco Street borders the site to the south. The flat site is currently developed with a single-story, 24,238 square foot retail building located in the northeast corner of the site, and built to the street lot line along NE Halsey Street. A second, one-story, 5,092 square foot retail building is located in the northwest corner of the site, and built to the street lot line along both NE Halsey Street and NE 122<sup>nd</sup> Avenue. Much of the remainder of the site is developed with surface parking that contains both perimeter and interior landscaping. The exception is two graveled areas located along the southern edge of the site. The applicant's current proposal replaces this area with the proposed building and additional paved parking.

The surrounding area is developed primarily with lower-density, one to two story commercial buildings that typically are set back from the street, with parking and/or vehicle display areas between the building and the street.

Both NE Halsey Street and NE 122<sup>nd</sup> Avenue are designated Transit Access Streets and designated City Walkways, with NE Wasco Street designated as a Local Service Transit Street and Local Service Walkway. All three streets are fully developed with curbs and sidewalks.

**Zoning:** The subject site is located in a General Commercial (CG) zone. The 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.

**Land Use History:** City records indicate there is a single previous land use review processed for this site. A Lot Consolidation was approved in 2012 (LU 11-177257 LC) to consolidate four parcels on the site into a single parcel.

**Agency Review:** A Notice of Proposal was mailed March 15, 2013. The following bureaus have responded with no issues or concerns regarding the requested Adjustment:

- Portland Bureau of Transportation;
- Bureau of Development Services (BDS) Site Development Section;
- Bureau of Environmental Services;

- Water Bureau;
- Fire Bureau;
- Portland Parks & Recreation Urban Forestry Division; and
- BDS Life Safety Plans Examiner.

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the Notice of Proposal.

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 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 have been met.

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

**Findings:** The applicant has requested approval of an Adjustment to decrease the length of building wall that is required to be within the maximum setback along NE 122<sup>nd</sup> Avenue. The purpose for the maximum allowed building setback, as stated in Zoning Code Section 33.130.215.A, is as follows;

*The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial zones...The setback requirements along transit streets and in Pedestrian Districts create an environment that is inviting to pedestrians and transit users.*

The proposal equally meets the stated intent of the maximum transit street setback based on the following findings.

- The maximum setback standard for corner lots that front two transit streets, as is the case for the subject site, requires that at least 50% of the cumulative length of all street-facing walls be within 10 feet of one of the two transit streets, and 100% of the cumulative length of street-facing building walls be within 10 feet of the other transit street. For the subject site, nearly 65 percent of the street-facing building walls will be within 10 feet of the street lot line along NE Halsey Street, thereby exceeding the minimum standard. Furthermore, while the Zoning Code allows building walls meeting the maximum setback standard to be placed as far back as 10 feet from the street lot line, all but 20 feet of the building wall length meeting the maximum setback standard on the subject site is built to the lot line along NE Halsey Street. This placement of buildings establishes a strong, built-up edge along this street edge, which supports the CG zone's desired character along a transit street. The street-facing windows and main entrances on these building walls further promote a transit/pedestrian friendly form of development.
- The proposed building will have nearly its entire west façade within the maximum allowed street setback along the site's NE 122<sup>nd</sup> Avenue frontage. This street-facing facade has a total width of 85 feet, with 78 feet of that width being within approximately four feet of the lot line along NE 122<sup>nd</sup> Avenue. Additionally, even with the requested Adjustment, there will still be nearly 210 feet of building wall extending along this frontage.

Similar to the existing situation described above for the site's NE Halsey Street frontage, the location of the new building facade close to the street, with a main entrance and

large window areas oriented to the street, together create an environment that is inviting to pedestrians and transit users.

- The standards of the CG zone allow vehicle areas to extend across 50% of a site’s frontage along transit streets. The applicant meets this limitation along the site’s NE Halsey Street frontage, and has limited the vehicle area frontage along the site’s NE 122<sup>nd</sup> Avenue to only 40% which helps balance for the maximum setback Adjustment along this frontage.

Based on these findings, the requested Adjustment equally meets the intent of the maximum setback standard, and 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:** Because the site is in a Commercial, or “C” zone, this criterion requires the applicant to demonstrate that the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area.

Street Classifications

The classifications of the three adjacent streets, NE Halsey Street, NE 122<sup>nd</sup> Avenue and NE Wasco Street, are identified in the Transportation Element of the Comprehensive Plan as follows:

Street	Traffic	Transit	Bikeway	Walkway	Freight
NE Halsey St.	Major City Traffic Street	Transit Access Street	City Bikeway	City Walkway	Truck Access Street
NE 122 <sup>nd</sup> Ave.	Major City Traffic Street	Transit Access Street	City Bikeway	City Walkway	Major Truck Street
NE Wasco St.	Local Traffic Street	Local Service Transit Street	Local Service Bikeway	Local Service Walkway	None

The Transportation Element states that auto-oriented development should locate adjacent to a Major City Traffic Street, and should orient to pedestrians along streets that are also classified as a Transit Street or within Pedestrian Districts (Policy 6.5.B). Policy 6.6.C of the Transportation Element states that land uses along Transit Access Streets should encourage pedestrian-oriented development in commercial and mixed-use areas. While the proposed use is not necessarily auto-oriented, other than providing on-site parking, the proposed building is oriented to pedestrians. This is accomplished by placing nearly the entire west street-facing building wall within four feet of the transit street (along NE 122<sup>nd</sup> Avenue), with a main entrance that is easily accessed directly from the sidewalk. This main entrance is architecturally announced through the use of a substantive canopy that extends out from the building wall and over the main entrance area. The windows along this facade, both on the ground floor level and upper floors, provide visual interest and provide enhanced safety for pedestrians by allowing views to and from the building. The clearly identified pedestrian connections from the street to the interior of the site further contribute to the development’s pedestrian orientation.

Policy 6.7.A of the Transportation Element discourages auto-oriented land uses along City Bikeways except when such routes are also designated Major City Traffic Streets. While both NE Halsey Street and NE 122<sup>nd</sup> Avenue are designated City Bikeways, both streets are also designated Major City Traffic Streets. As such, the requested Adjustment has no

impact on this policy.

Policy 6.8.C of the Transportation Element states City Walkways should serve areas with dense zoning, commercial areas and major destinations. Where auto-oriented land uses are allowed on City walkways, site development standards should address the needs for pedestrians. The requested Adjustment has no impact on the type or density of commercial uses that are allowed on the site, and as previously noted, usable, safe and attractive pedestrian accessways are provided from the adjacent streets into the site.

Regarding the Freight classifications, Policy 6.9.D of the Transportation Element notes that commercial and industrial uses that generate high levels of truck activity should locate along Major Truck Streets, with Policy 6.9.E supporting the location of commercial uses that generate lower volumes of truck trips along Truck Streets. Again, the requested Adjustment in no way impacts the type of uses that could locate on the subject site.

Based on these findings, the Adjustment request results in a proposal that is consistent with the adjacent street classifications.

#### Desired Character of the Area

As defined in Zoning Code Section 33.910.030, the “desired character” of an area is based on the purpose or character statement of the base zone, as well as the preferred and envisioned character of any adopted area plans. As the subject site is not within the boundaries of an adopted area plan, the character statement for the CG zone will be used to address the consistency of the proposal with the desired character of the area.

The character statement for the CG zone is stated in Zoning Code Section 33.130.030.G, and reads as follows:

*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 proposal, even with the requested Adjustment, will still be consistent with this character statement. The subject site is an area that has a significant auto-oriented component based on the type of uses (car sales and quick vehicle serving); the style of development (lower density buildings separated from the street by large vehicle areas); and the street classifications, which are intended to accommodate large amounts of vehicular traffic. Despite the existing character in the surrounding area, the applicant is proposing development that seeks to meet the desire to make the NE Halsey Street and 122<sup>nd</sup> Avenue corridors more pedestrian and transit friendly. Each of the three buildings on the site, including the proposed building, are placed around the perimeter of the property, close to the streets that are the most transit, pedestrian and bike oriented. Parking areas are generally contained within the interior of the site and away from the designated transit streets. The placement of main entrances and windows along the street-facing facades is intended to enhance the pedestrian environment and make for a more aesthetically pleasing development as viewed from the street.

Based on these findings, the proposal will be consistent with classifications of the adjacent streets and with the character of the CG zone. 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; and

**Findings:** As only one Adjustment is requested, this criterion is not applicable.

- D.** City-designated scenic resources and historic resources are preserved; and

**Findings:** City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. Because there is neither a scenic nor historic resource designation on the site, this criterion is not applicable.

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

As indicated above in response to Approval Criteria A and B, because the request equally meets the intent of the maximum setback regulation, and will be consistent with the classifications of the adjacent streets and the stated character of the CG zone, there are no adverse impacts for which additional mitigation would be required, and this criterion is met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.

**Findings:** As the site is not located in an environmental zone, this criterion is 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 via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

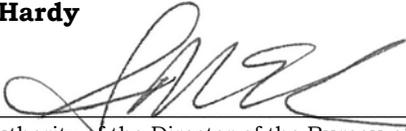
The applicant has demonstrated that the applicable approval criteria for the requested Adjustment have been met. The Adjustment request equally meets the intent of the maximum building setback standard along both NE 122<sup>nd</sup> Avenue and NE Halsey Street. Furthermore, the Adjustment request is consistent with the classifications of the adjacent streets and the desired character of the area.

## ADMINISTRATIVE DECISION

**Approval** of an Adjustment to the maximum building setback (Zoning Code Section 33.130.215.C) to reduce the cumulative length of the ground level building walls that must be within the maximum building setback from 100% to 71% along NE 122<sup>nd</sup> Avenue, per the approved site plan and building elevations (Exhibits C.1 through C.2), signed and dated April 11, 2013, and subject to the following condition:

- A. As part of the building permit application submittal, each of the four 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-108558 AD."

**Staff Planner: Douglas Hardy**

**Decision rendered by:**  **on April 11, 2013**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: April 12, 2013**

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

**Procedural Information.** The application for this land use review was submitted on January 24, 2013, and was determined to be complete on March 13, 2013.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on January 24, 2013.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on July 11, 2013.**

**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 April 26, 2013** at 1900 SW

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

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](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 **April 29, 2013**.
- 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.

**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:

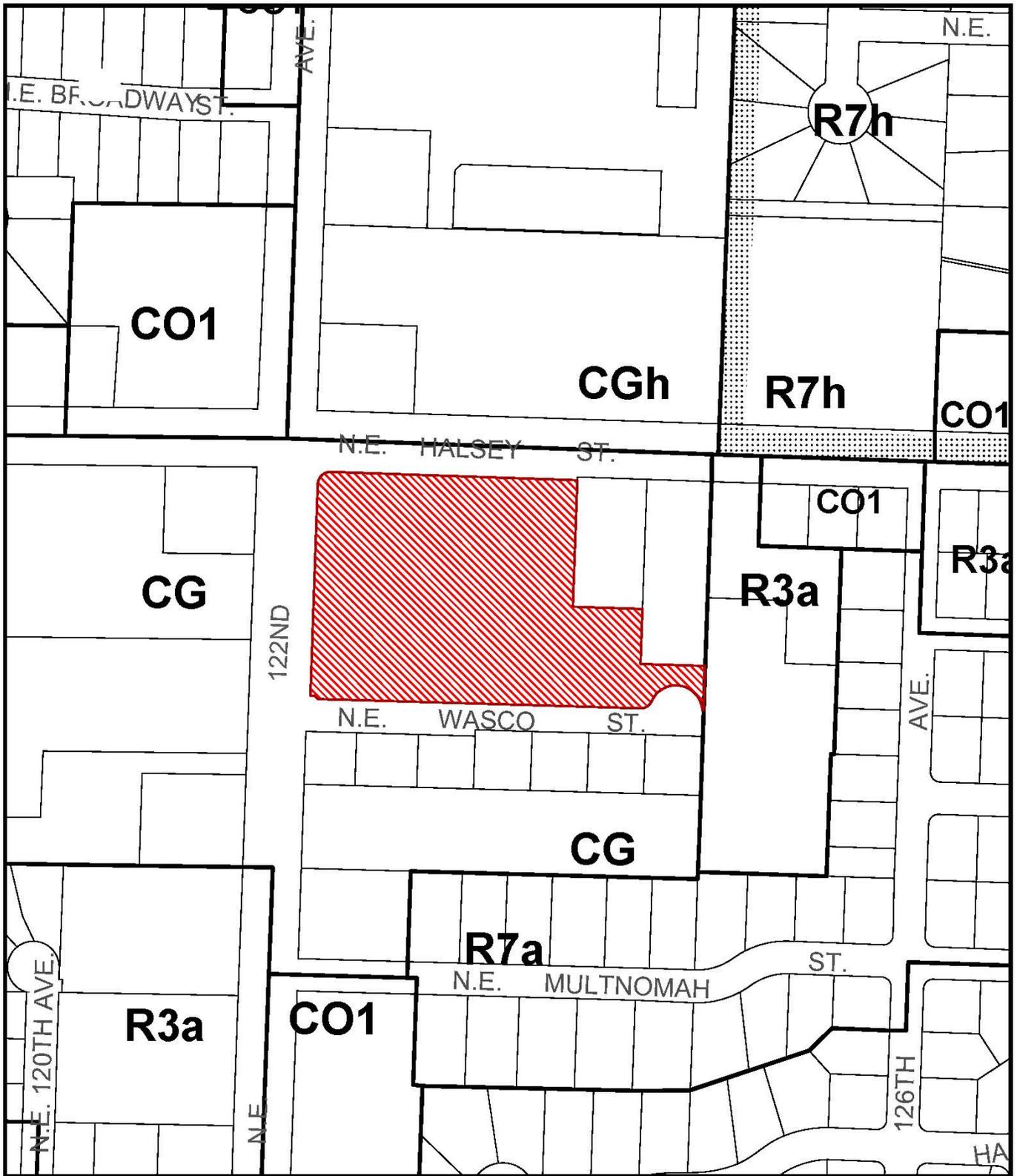
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  1. Written Narrative, dated January 23, 2013
  2. Response to Incomplete Letter, received March 13, 2013
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)
  2. Building Elevations (attached)
- D. Notification information:
  1. Mailing list
  2. Mailed notice
- E. Agency Responses:
  1. Bureau of Environmental Services
  2. Portland Bureau of Transportation
  3. Water Bureau
  4. Fire Bureau
  5. BDS Site Development Section
  6. BDS Life Safety Plans Examiner
  7. Portland Parks & Recreation Urban Forestry Division
- F. Correspondence:
- G. Other:
  1. Original LU Application
  2. Letter of Incompleteness

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



# ZONING



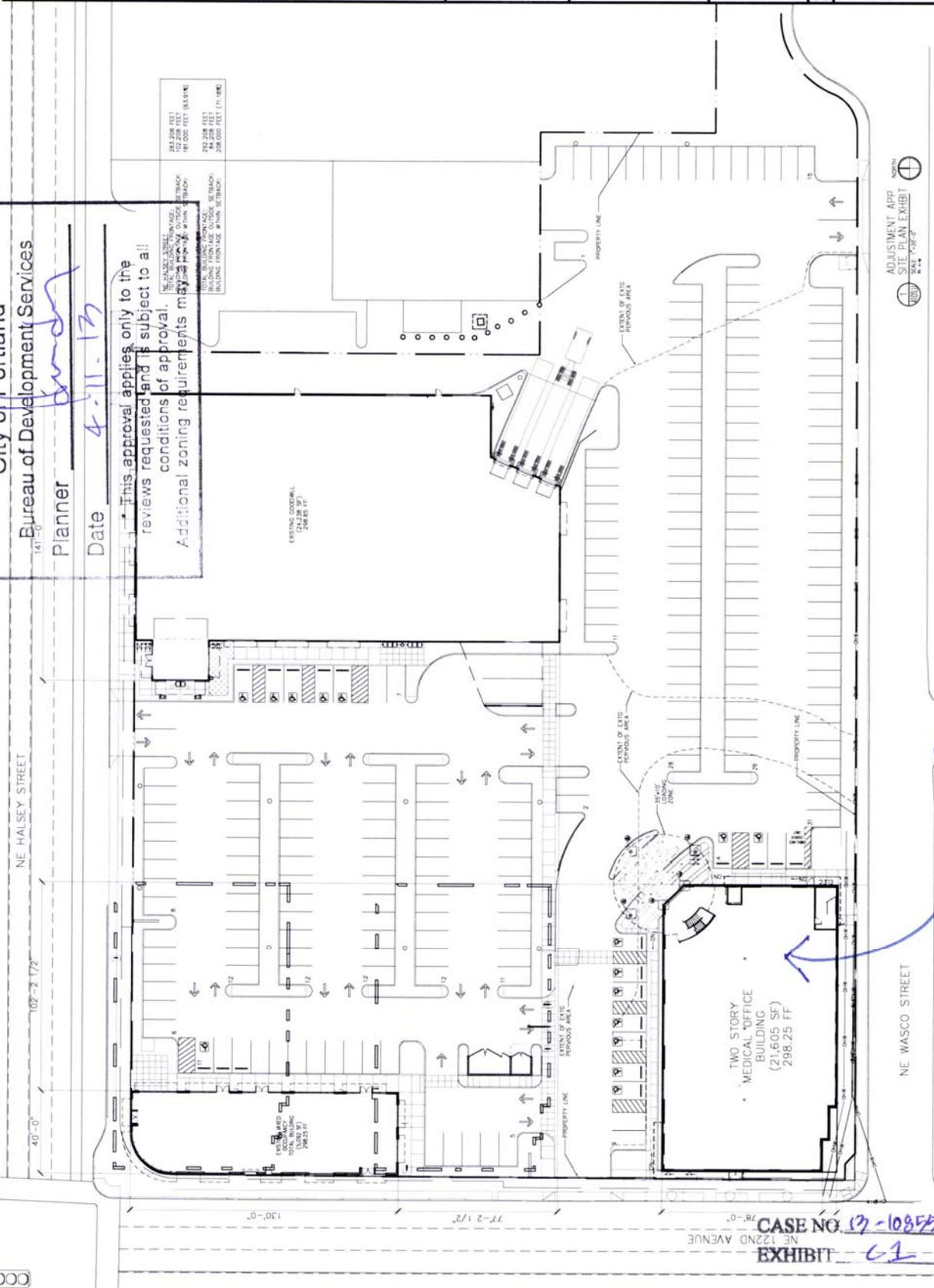
File No. LU 13-108558 AD  
 1/4 Section 2943  
 Scale 1 inch = 200 feet  
 State\_Id 1N2E35BB 701  
 Exhibit B (Jan 25, 2013)

RECEIVED

MAR 13 2013

**\*Approved\***  
**City of Portland**  
 Bureau of Development Services  
 Planner *[Signature]*  
 Date *4-11-13*

This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



*proposed building*

**GOODWILL INDUSTRIES OF COLUMBIA WILLAMETTE**  
 MEDICAL OFFICE BUILDING  
 GW 11011

**ENCORE**  
 STREET & SUITE  
 PHONE, STATE, & ZIP

**BAYSINGER PARTNERS ARCHITECTURE PC**  
 1006 SE Grand Ave., Suite 300, Portland, OR 97214  
 Phone: 503-546-1600 Fax: 503-546-1601  
 Email: [frank@baysingerpartners.com](mailto:frank@baysingerpartners.com)

**BAYSINGER PARTNERS**

**PRELIMINARY NOT FOR CONSTRUCTION**

ISSUED / REVISED DATE

ORIGINAL ISSUE DATE: 01/27/2013  
 DRAWN BY: J.P. CHECKED BY: JRB

**SITE PLAN LAND USE EXHIBIT**

**A101-LU**  
 PROGRESS SET

CASE NO. *13-108558AD*  
 NE 122ND AVENUE  
 EXHIBIT *61*

ADJUSTMENT APP  
 SITE PLAN EXHIBIT  
 SCALE: 1/8" = 1'-0"

