



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** February 6, 2014  
**To:** Interested Person  
**From:** Sheila Frugoli, Land Use Services  
503-823-7817 / [Sheila.Frugoli@portlandoregon.gov](mailto:Sheila.Frugoli@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 13-233013 AD**

#### **GENERAL INFORMATION**

**Applicant:** Allison Hazen / Core States Group / 425-658-5090  
150 Lake Street South, Suite 212 / Kirkland, WA 98033

**Tenant/Renter:** Adam Brandenburg / McDonald's USA, LLC  
One McDonald's USA, LLC / Oak Brook, IL 60523

**Property Owner:** JEMA Properties, LLC  
PO Box 90608 / Portland, OR 97290

**Site Address:** 2875 SE POWELL BLVD

**Legal Description:** BLOCK 10 LOT 1-3 EXC PT IN ST, WAVERLEIGH HTS; BLOCK 10 LOT 4 EXC E 10' & EXC PT IN ST LOT 11 EXC E 10', WAVERLEIGH HTS; BLOCK 10 LOT 6&7 EXC PT IN ST LOT 8&9, WAVERLEIGH HTS; BLOCK 10 E 10' OF LOT 4 EXC PT IN ST LOT 5 EXC PT IN ST. LOT 10 E 10' OF LOT 11, WAVERLEIGH HTS

**Tax Account No.:** R885301270, R885301300, R885301320, R885301360  
**State ID No.:** 1S1E12BC 07300, 1S1E12BC 07200, 1S1E12BC 07000, 1S1E12BC 07100

**Quarter Section:** 3433

**Neighborhood:** Hosford-Abernethy, contact Joanne Stainbrook at 503-231-9245.  
**Business District:** Greater Brooklyn, contact David Weislogel at 503-872-9320.  
**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.  
**Zoning:** CG, General Commercial  
**Case Type:** AD, Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:** The applicant, McDonald's USA, intends to rebuild its current drive-through restaurant facility on the site. The project will include a new building that will be located within 10 feet of the south (SE Powell Blvd) property line. There will be new drive-through stacking lanes as well as a new parking and landscaping configuration. The project will include pedestrian connections from SE Powell to the entrances.

The applicant is requesting an Adjustment to waive the required on-site pedestrian connections from secondary streets—SE Waverleigh Blvd and SE 29<sup>th</sup> Avenue and an interior pedestrian connection from the parking areas to the main entrance.

**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 has been met.

## ANALYSIS

**Site and Vicinity:** The site encompasses an approximate 33,800 square foot triangular-shaped block. The western tip of the block is densely landscaped with mature trees and shrubs. The remainder of the site is developed with a McDonald's "fast food" restaurant with drive-through service. The current restaurant building is approximately 3,600 square feet in size and is located in the southeast section of the site. Garbage and recycling bins are located behind a concrete enclosure in the northeast corner. The remainder of the site consists of asphalt, providing approximately 43 parking spaces and a drive-through facility. There is an outdoor eating area located between the building and the SE Powell Blvd right-of-way. Retaining walls along SE 29<sup>th</sup> (east) and SE Waverleigh Blvd (north) reflect a significant topographic change on the site. At its highest point, the retaining wall is approximately 10 feet tall near the northeast corner of the site. Except for a curb cut for vehicle access, a concrete wall with perimeter landscaping, defines the northern edge of the site.

On the north side of SE Waverleigh Blvd are small apartment buildings and single-dwelling residences. Further west, SE Waverleigh does not intersect with SE Powell. Rather it terminates behind the SE Powell right-of-way where a Tri-Met bus shelter is located. To the west, is the large (approximately 175,546 square feet) Cleveland High School campus. The Cleveland High sports field is located 3 blocks east of the school. The field is separated from the subject site by other commercial businesses—a bowling alley and other retail businesses. Commercial businesses line the south side of SE Powell Blvd.

The McDonald's restaurant is oriented to SE Powell Blvd, which is classified as a Major Traffic street, with priority transit and as a pedestrian walkway. There is a painted pedestrian crossing, with no signal that connects the south side of SE Powell to the McDonald's and other nearby sites. SE Powell is a State Highway (Highway 26) and is under the jurisdiction of the Oregon Department of Transportation. SE Waverleigh Blvd is a wide right-of-way, wider than SE Powell, but is designated a local service street. Because of its width, angled on-street parking is provided along the McDonalds frontage. SE 29<sup>th</sup> is standard size with a 2-lane roadway, sidewalks and on-street parking.

**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 CG zone allows drive-through facilities that serve retail uses such as "fast food" restaurants.

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

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **December 12, 2013**. The following Bureaus have responded with no issues or concerns regarding the Adjustment request:

- Fire Bureau;
- Site Development Section of BDS;
- Life Safety Plan Review Section of BDS;
- Bureau of Parks-Forestry Division;
- Bureau of Environmental Services; and
- Water Bureau.

The **Portland Bureau of Transportation** responded with the following comments:

Portland Bureau of Transportation/Development Review (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.

#### **ADJUSTMENT APPROVAL CRITERIA**

There are no applicable transportation-related approval criteria associated with the proposed Adjustment request. Accordingly, PBOT has no objections to the project.

#### **Driveways and Curb Cuts (Section 17.28)**

Curb cuts and driveway construction must meet the requirements in Title 17. The Title 17 driveway requirements will be enforced during the review of building permits.

#### **Street Improvements (Section 17.88.010) [In association with the Building Permit, only; not to be conditions of approval for this Adjustment]**

##### **Street Classifications**

At this location, SE Powell is classified as a Major City Traffic street, Major Transit Priority street, Local Service Bikeway, City Walkway and a Regional Corridor in the City's Transportation System Plan. SE Powell is also a State Highway (State Route HWY 26/) under the jurisdiction of the Oregon Department of Transportation (ODOT). The site's SE 29th Ave & SE Waverleigh Blvd frontages are classified as Local Service streets for all modes.

According to City database sources, at this location, SE Powell is improved with 60-ft of paving and a 10-ft wide curb-tight sidewalk within an 80-ft wide right-of-way (r.o.w.). SE 29th Ave is improved with 36-ft of paving and a 4-6-2 sidewalk corridor within a 60-ft r.o.w. SE Waverleigh is improved with 60-ft of paving and a 7-6-2 sidewalk corridor within a 90-ft r.o.w.

For a site located in the CG zone district along a City Walkway (classification) street, the City's Pedestrian Design Guide recommends a 12-ft wide sidewalk corridor (0.5-ft curb/4-ft wide furnishing zone/6-ft wide sidewalk/1.5-ft frontage zone). The site's SE Powell existing 10-ft wide curb-tight sidewalk does not satisfy this standard, therefore, in association with the Building Permit for the proposed development on the site, the applicant will be required to reconstruct the existing sidewalk to satisfy the 12-ft wide sidewalk corridor standard. To accommodate the required 12-ft wide sidewalk corridor, a 2-ft dedication of property for right-of-way purposes will be required. The existing improvements along the site's other two frontages exceed current City standards; no additional improvements/ dedications will be necessary along either SE 29th Ave or SE Waverleigh.

Given the length of the site's frontage, the above referenced sidewalk corridor construction will trigger the need for a Public Works Permit. The r.o.w. improvements must be designed by an Oregon licensed civil engineer and constructed under a Public Works Permit, which is separate from the Building Permit that will be necessary for construction of the proposed restaurant. The applicant is encouraged to contact Public Works at (503) 823-1987 or at [publicworkspermit@portlandoregon.gov](mailto:publicworkspermit@portlandoregon.gov) to familiarize himself with the process and initiate the appropriate meetings/process. Additional information on the City's Public Works Permitting process can be found at the following link:

<http://www.portlandonline.com/index.cfm?c=53147>. NOTE: The applicant should make every effort to

retain the existing mature trees along the SE Powell frontage. Appropriate measures will be considered/reviewed during the permitting process. According to the City's project tracking system, the applicant has already submitted for Public Works review (13-215692 PW).

The City's dedication process is administered by PBOT's Right-of-Way Acquisitions Section & is separate from the Building Permit process. Additional information on the dedication process can be reviewed at the following link:

<http://www.portlandonline.com/transportation/index.cfm?a=82666&c=38718>

Any questions related to the requirements from ODOT in relation to the site's SW Powell frontage will need to be addressed to the State agency. PBOT is aware that ODOT has already weighed in on this proposal and is supportive of the proposed (one) driveway closure. The applicant is advised to contact ODOT for additional information on their approach permit requirements at the following contact information: [Region1DEVREVApplications@odot.state.or.us](mailto:Region1DEVREVApplications@odot.state.or.us)

The applicant is advised of the joint ODOT/PBOT Powell High Crash Corridor Project, which will include pedestrian improvements, including, very likely, along the frontage of the subject site. For further information on this project, the applicant may contact Wendy Cawley (PBOT) at [wendy.cawley@portlandoregon.gov](mailto:wendy.cawley@portlandoregon.gov) or Kathy Riley (ODOT) at [Kathryn.A.Riley@odot.state.or.us](mailto:Kathryn.A.Riley@odot.state.or.us).

PBOT has no objections to the proposed Adjustment request. (Exhibit E.1)

The **Oregon Department of Transportation (ODOT)** response states that ODOT is pleased to see the applicant is removing one driveway, which eliminates existing vehicle conflicts. ODOT permits—approach (access) and drainage will be required. For the ODOT permits, the applicant must submit sight-distance triangles, turning templates for truck deliveries, trip counts and a drainage plan. (Exhibit E.2)

**Neighborhood Review:** A total of six separate written responses have been received from either the Neighborhood Association representatives or notified property owners in response to the Notice of Proposal. The following comments and concerns were offered:

Exhibit F.1

- The Adjustment will preclude the establishment of potentially safer pedestrian and bicycle connections from secondary streets to the McDonald's site. The connections will be eliminated in favor of increased auto connections off SE Powell Blvd.
- The development is counter to the "healthy, connected neighborhoods" concept that is a cornerstone of the "Portland Plan" and draft Comprehensive Plan. These plans strive to not only reduce traffic congestion but also to lower carbon being released into the atmosphere and to provide opportunities for Portlanders to get more exercise.
- Air quality in the local air shed is degraded primarily by tail pipe emissions. The continuation of a drive-thru would only add to the problem. This is a matter of livability, specifically a human health concern.
- Because drive-thru's involve amplification of human voices and there is residential zoning behind the site, the City's Noise Control Officer should review the proposal to verify that the late night noises will not impact the nearby residents.

Exhibit F.2

- It is critical that all the pedestrian paths around the site are safe and pleasant. Particularly near the drive-thru aisles, there should be good visibility, signage and lighting for drivers to see pedestrians.
- The project should also assess/improve lighting at the sidewalk where pedestrians wait to cross SE Powell.

- The plantings, along the north edge of the site should be sufficient to screen vehicle headlights from impacting the residences to the north.
- Potential noise impacts to nearby residences should be addressed. (Exhibit F.2)

#### Exhibits F.3 and F.5

- This site, sitting with such unfortunate and close proximity to the neighboring high school, generates significant pedestrian traffic. Making it more difficult for access via foot will only increase the chances of an accident and conflicts.
- The City should not allow a compromise of common sense livability to an auto-centric way of life. The City encourages walking and use of alternative modes of travel.
- Facilitating auto-centric traffic patterns at the expense of the pedestrian environment should not be allowed. (Exhibit F.3 and F.5)

#### Exhibit F.4

- Businesses in southeast Portland such as the Walgreens on SE Cesear Chevez and the Starbucks on SE 35<sup>th</sup> and Powell emphasize a business model that relies on a “wait in your idling car” approach. The significant reduction in proposed parking on the McDonald’s site will encourage more customers to wait in the longer drive-thru lines. This kind of development is counter-productive to livability and sustainability goals.

#### Exhibit F.6

- For the most part, the establishment has been a good neighbor. They do regularly police the litter around their site.
- At least one more litter container should be located near the sidewalk at the west of the site and should be regularly maintained. Neither ODOT or Tri-Met will place or maintain trash cans at that location. Additionally, McDonald’s could show community leadership by encouraging recycling by providing appropriate containers on-site.

**BDS Staff Comments:** The current zoning, General Commercial, is an “auto-accommodating” zone that allows commercial uses that can serve a regional market. This zone allows drive-through facilities and because its location along a transit street (SE Powell) with frequent bus service, there is not a minimum parking requirement. Therefore, this review can not speak to the air quality impacts of idling vehicles.

The City’s garbage collection and recycling programs do not require recycling of “take-out” containers that are used and then discarded by their customers. Therefore, the separation and collection of recyclable containers would be voluntarily implemented by the business. There is no nexus with the Adjustment to the pedestrian connection requirement and requiring customer recycling facilities. The applicant has received copies of the public comments and has conveyed assurance that there will be an adequate number of garbage cans placed on the site. Outside of this land use review, the neighborhood association has the ability to advocate for actions, such as providing recyclable containers, so that McDonalds follows other Portland business models.

Regarding the concern that noise from the drive-thru speaker boxes could impact the adjacent residential uses, the Portland Zoning Code requires applicants to document that off-site impacts such as excessive levels of noise will not be extend beyond the commercially-zoned site and adversely impact the adjacent residentially-zoned properties (Chapter 33.262, Off-Site Impacts). The applicant has submitted noise level information that illustrates the boxes will not exceed the decibel limits applied in the City’s Noise Code (Title 18). The applicant will submit this information as part of the building permit application.

The other issues raised that address the on-site pedestrian connections and pedestrian safety will be addressed under applicable approval criterion, below.

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F., 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 is requesting an Adjustment to Zoning Code development standard 33.130.240- Pedestrian Standards. Section 33.130.240.A describes the purpose of the regulation as:

***Purpose.** The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in all developments. They ensure a direct pedestrian connection between abutting streets and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible.*

Because the applicant intends to: (1) utilize the existing curb cut location on the SE Waverleigh Blvd frontage, (2) not alter the existing retaining walls along SE Waverleigh and SE 29<sup>th</sup> Ave, (3) construct required stormwater detention/disposal facilities (identified as “stormwater infiltration basins or rain gardens” on the plans) and (4) accommodate parking and new drive-thru lanes, the applicant requested to waive the pedestrian connection requirement from both SE Waverleigh and SE 29<sup>th</sup>.

Many of the interested neighbors who submitted written comments oppose the request. In summary, the comments convey a concern that the auto-oriented elements—parking and drive-thru—are given priority at the expense of the customers who walk to restaurant. Further, many of the letters identify the nearby high school and the need to provide safe passage for the youth who will patronize the fast food business. One of the letters identifies current City policies that encourage pedestrian use that creates a healthy, livable place. Staff finds the neighbors concerns to be relevant and compelling. However, there are topographic characteristics and physical constraints that should also be considered. Because the proposed restaurant will be located near the corner of SE 29<sup>th</sup> and SE Powell and the tallest portion of wall is at the northeast corner, a pedestrian connection would entail the construction of a new stairway that would be cut into the existing retaining wall. Then, that pedestrian connection would cross the main vehicle entrance onto the site. This would not be a safe or practical option. The public sidewalk on SE 29<sup>th</sup> will be sufficient to provide safe pedestrian connections to the restaurant for pedestrians who are traveling from the east.

In contrast, staff finds that the pedestrian connection requirement should not be waived for the required connection for pedestrians who are traveling from the west and north or for those who park at the site and walk to the building entrance. The design of the required stormwater infiltration facilities, parking area and required perimeter parking lot landscaping can be altered to provide an adequate pedestrian connection. An Adjustment to reduce the required width of the pedestrian connection from 6 to 4 feet will provide a reasonable modification that still provides a safe, useable system. The on-site walkway can begin adjacent to SE Waverleigh curb cut approach, follow the north property line while still maintain the proposed landscape areas identified as the rain garden/stormwater infiltration area. Then, the walkway can be located on northern edge of the parking spaces to connect to the pedestrian walkway that leads to SE Powell main entrance. The attached site plan (Exhibit C.1) identifies the location of the required 4 foot wide walkway. Except in one location, there is adequate area available to accommodate both a 4-foot wide walkway and the required 5-foot deep perimeter parking lot landscape area. The proposed parking space that is located in the northwest edge of the parking area may need to be removed. SE Powell has frequent bus service and therefore there is no minimum required number of on-site parking spaces. A reduction of one space will not adversely impact the viability of the project. Furthermore, so that vehicles may not significantly extend into the pedestrian pathway, a condition will require the installation of wheel stops that must be located 1 foot back from

the curbing that edges the parking. This will limit the amount, to approximately 1 foot, of vehicle overhang into the 5-foot wide pedestrian corridor. The Zoning Code requires 90-degree parking spaces to be 16 feet deep. The applicant has designed the parking lot with 17 feet deep spaces and wide aisles. To meet the perimeter parking lot landscaping requirement, a condition will require a continuous row of evergreen shrubs be planted, either on the south or north side of the walkway.

Curbing, wheel stops and landscaping will serve to separate the pedestrian connection from vehicle areas. Where the pathway crosses a vehicle path, it must be a raised or different surface, such as concrete, than that which is used for the parking lot. A condition will require the pedestrian walkway to be a different surface than what is used for the parking lot. Lastly, for safety during night time hours, a condition will require the applicant to provide adequate lighting for the entire length of the connection--from both SE Waverleigh and Powell to the main building entrance. With conditions, this approval 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:** The entire site (ownership) has frontage along four streets which are classified as follows in the City’s Transportation System Plan (TSP):

Rights-of-Way	Traffic Classification	Transit Classification	Bicycle Classification	Pedestrian Classification
SE Powell Blvd	Regional Major Traffic Street/ Regional Corridor/ State Highway	Major Transit Priority	Local Bikeway	City Walkway
SE Waverleigh	Local Service	None	Local Service Bikeway	Local Walkway
SE 29 <sup>th</sup> Ave	Local Service	None	Local Service Bikeway	Local Walkway

In the written response, PBOT raised no concerns regarding the Adjustment to the on-site pedestrian connection standard. Both the PBOT and ODOT responses state support for reducing the number of curb cuts on SE Powell and mention improvements along the SE Powell Blvd frontage. The PBOT response mentions the joint ODOT/PBOT Powell High Crash Corridor Project, which will include pedestrian improvements in the public right-of-way.

The Zoning Code defines the term “desired character” as being based on the purpose statement of the base zone, overlay zone and plan district and the preferred and envisioned character included in adopted area plans (Section 33.910.030). The proposal is in the CG, General Commercial zone. Further, the site is within the plan boundary of the Hosford-Abernethy Neighborhood Action Plan (adopted February 10, 1988).

Section 33.130.030.G describes the purpose of the CG, General Commercial as follows:

**General Commercial zone.** *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 Hosford-Abernethy Neighborhood Plan includes the following relevant statements, policies and objectives:

**Vision Statement (page 1):** *Many people choose to live in Hosford-Abernethy (HAND) because of its proximity to jobs and services. Walking, bicycling and public transit are important components of inner-city living.*

**Policy 3 – Transportation (page 24):** *Encourage safe and efficient use of the transportation network which minimizes negative traffic impact on the neighborhood livability and business operations.*

*Objective 3.2. Encourage the use of Powell, as designated in the Arterial Street Classification Policy, as the major east/west corridor while ensuring traffic safety.*

**Objective 2.2 (page 22):** *Encourage effective buffers, such as setbacks and landscaping, between commercial and industrial and residential uses.*

**Policy 4 – Livability, Identity and Public Safety (page 24 -25):** *Develop a strong neighborhood identity that unifies the residents and industrial and commercial interests in order to foster a safe and caring community.*

*Objectives:*

*4.7. Upgrade the appearance of both residential and commercial properties.*

*4.8. Promote crime prevention through environmental design techniques which can create a sense of place and reinforce a neighborhood identity.*

**Policy 5 – Commercial/Industrial (page 27-28):** *Promote a supportive relationship between the residential and commercial/industrial interests of the neighborhood.*

The proposed new (replacement) restaurant with drive-thru facility is allowed outright in the CG zone and will serve the local area as well as the surrounding neighborhoods (regional market). The proposed building orientation and landscaping treatment respond to the pedestrian routes and major transit and traffic corridor on SE Powell Blvd. This corridor creates a strong edge and is the defined southern boundary for the Hosford-Abernethy neighborhood. The Hosford-Abernethy Neighborhood Plan acknowledges that SE Powell Blvd is a major transportation corridor. The plans calls for upgrades, crime prevention and a supportive relationship between residents and commercial interests. Although the plan is almost 25 years old, the vision of the neighborhood--walking, bicycling and use of public transit service—all remain essential components for neighborhoods such as the Hosford-Abernethy neighborhood.

It is assumed that the placement of buildings up to or near street lot lines creates an urban character where the close distance to and from the public sidewalks, bikeways and transit stops encourages and serves multiple modes of transportation. When buildings are separated from the public sidewalks and transit stops, providing pedestrians on-site connections to the main entrance are equally important. Other factors that facilitate and serve multi-modes include signalized intersections, bike lanes, bike parking, convenient transit stops, a grid street pattern with smaller blocks, streets with wide sidewalks/walkways, landscape strips, landscape screening between the rights-of-way and parking areas.

Conditions that address the landscaping, lighting and parking lot layout, will ensure that modifications to the pedestrian standard will still be consistent with the neighborhood plan: (1) the new restaurant building creates an attractive street-facing facade with windows and a main entrance facing SE Powell; (2) the building and vehicles areas are setback from the street and will be screened by new landscape areas and stormwater facilities. The proposed new development will result in aesthetically pleasing improvements that facilitate access to the site for motor vehicles as well as for pedestrians and transit-users. A condition that requires the installation of outdoor lighting for the pedestrian circulation system and main entrance will improve safety and serve to discourage criminal behavior. With conditions, this proposal will be consistent with the desired character of the area. This criterion is met.



- C. If more than one adjustment is being requested, the cumulative affect of the adjustments results in a project which is still consistent with the overall purpose of the zone.

**Findings:** The applicant has requested one Adjustment. Therefore, this approval criterion is not applicable.

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

**Findings:** City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

**Findings:** In order for the proposal to be meet criterion A and B, conditions will require the 4-foot wide on-site pedestrian connection to be a different material, other than raised asphalt, and be separated from the parking spaces through the use of curbing and wheel stops that are set back at least 1 foot from the curb. The landscape plan must provide adequate screening, with a continuous row of evergreen shrubs. Also, lighting must be added to provide adequate visibility for the pedestrians who visit the site during nighttime operations. Impacts of the adjustment will therefore be mitigated. This criterion will be met.

- F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resources and resource value as is practical.

**Findings:** Environmental overlay zones are designated on the Official Zoning Map with either a lower case "p" (Environmental Protection) or "c" Environmental Conservation. As there are no environmental overlay zones mapped on the site, 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 or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

As reflected in the findings, with conditions, this proposal satisfies the Adjustment Review approval criteria. Therefore, the request should be approved.

## ADMINISTRATIVE DECISION

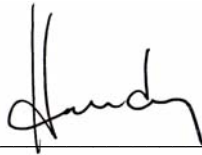
Approval of an Adjustment to waive the on-site pedestrian connection requirement from SE 29<sup>th</sup> Avenue to the SE Powell Blvd restaurant entrance and to reduce the required width of the on-site pedestrian connection from 6 feet to 4 feet for the connection between SE Waverleigh and the SE Powell entrance [Section 33.130.240], per the approved site plan, Exhibit C.1, signed and dated February 3, 2014, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through E) 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 13-233013 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

- B. The on-site pedestrian connection between SE Waverleigh and the main entrance must be comprised of a non-asphalt hard surface such as concrete or concrete pavers.
- C. Where the pedestrian connection abuts the parking area, it must be separated by a curb and wheel stops. The wheel stops must be placed at least one-foot behind the curb.
- D. Where the pedestrian connection is located between the parking area and the north property line, the required 5-foot deep landscape area must include living groundcover and a continuous row of evergreen shrubs that will mature to at least a height of 3 feet, consistent with the L2 landscaping standard.
- E. Lighting must be installed at or near the on-site pedestrian system so that the system may be used during night-time hours.

Note: Noise analysis information must be submitted with the building permit application to document that the drive-through speakers will not exceed the noise levels set forth in the City noise code, Title 18 and comply with Zoning Code Section 33.262.050 (Off-Site Impacts).

**Staff Planner: Sheila Frugoli**



**Decision rendered by:** \_\_\_\_\_ **on February 3, 2014**

By authority of the Director of the Bureau of Development Services

**Decision mailed: February 6, 2014**

**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 November 27, 2013, and was determined to be complete on December 9, 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 November 27, 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 requested that the 120-day review period be extended 14 days—January 7 to January 21, 2014 (Exhibit A.2). Unless further extended by the applicant, **the 120 days will expire on: April 22, 2014.**

**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 February 20, 2014** 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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

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

**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 **February 21, 2014**.
- 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 Blvd, #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:

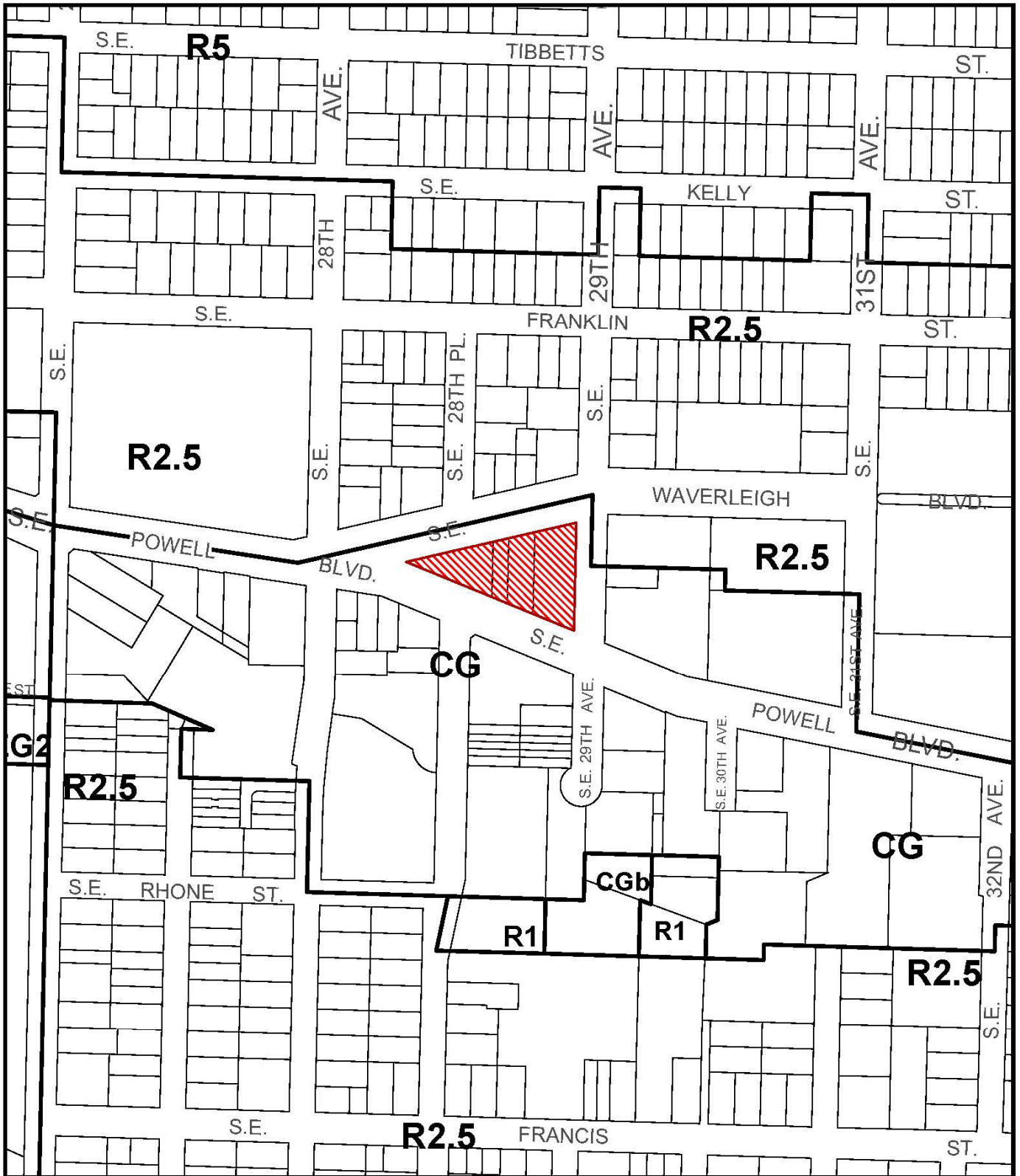
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  1. Proposal Description and Written Response to Adjustment Approval Criteria
  2. Request for Review Extension and Response Back to Staff, E-Mail, Jan. 21, 2014
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)
  2. Landscaping Plan
  3. South and East Building Elevations
  4. West and North Building Elevations
  5. Utility Plan
  6. Grading and Drainage Plan
  7. Survey Identifying Existing Development
  8. Photos of Existing Site
  9. Illustration from Applicant Identifying Possible Pedestrian Connection Routes from SE Waverleigh to Entrance, E-Mail Attachment, Jan. 21, 2014
- D. Notification information:
  1. Mailing list
  2. Mailed notice
- E. Agency Responses:
  1. Bureau of Transportation Engineering and Development Review
  2. Oregon Department of Transportation
  3. Water Bureau
  4. Fire Bureau
  5. Life Safety Plan Review Section of BDS
  6. Bureau of Environmental Services, Site Development Review Section of BDS
  7. Bureau of Parks, Forestry Division
- F. Correspondence:
  1. Linda Nettekoven, Jan. 2, 2014, Oppose the Proposal
  2. Joanne Stainbrook, Jan. 2, 2014, Raised Concerns
  3. Pinn Crawford, Jan. 2, 2014, Oppose Proposal
  4. David Kaplan, Jan. 2, 2014, Oppose Proposal
  5. Bill Crawford, Jan. 2, 2014, Oppose Proposal
  6. Kevin Mickelsen and Elena Andresen, Mailed Dec. 30, 2013, Raised Concerns
- G. Other:
  1. Original LU Application
  2. Early Assistance Meeting – Summary Memo, Aug. 8, 2013

**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. LU 13-233013 AD  
 1/4 Section 3333,3433  
 Scale 1 inch = 250 feet  
 State\_Id 1S1E12BC 7200  
 Exhibit B (Dec 04, 2013)

**SITE NOTES**

- A. PROPOSED SIGNAGE FOR BUILDING. REFER TO SHEET C.
- B. PROPOSED SIGNAGE FOR DRIVEWAY. REFER TO SHEET C.
- C. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
- D. PROPOSED SIGNAGE FOR DRIVEWAY. REFER TO SHEET C.
- E. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
- F. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
- G. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
- H. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
- I. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
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- Q. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
- R. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
- S. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
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- V. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
- W. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
- X. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
- Y. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
- Z. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
- AA. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.
- AB. PROPOSED SIGNAGE FOR SIDEWALK. REFER TO SHEET C.

**SIGNAGE NOTES**

1. PROPOSED STOP SIGN. REFER TO SHEET C03/1.
2. PROPOSED STOP SIGN. REFER TO SHEET C03/1.
3. PROPOSED STOP SIGN. REFER TO SHEET C03/1.
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11. PROPOSED STOP SIGN. REFER TO SHEET C03/1.

**SIDE BY SIDE DRIVE DIMENSIONS AND N**

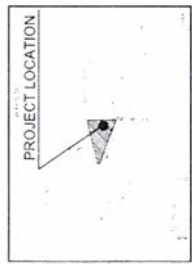
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**SITE NOTES**

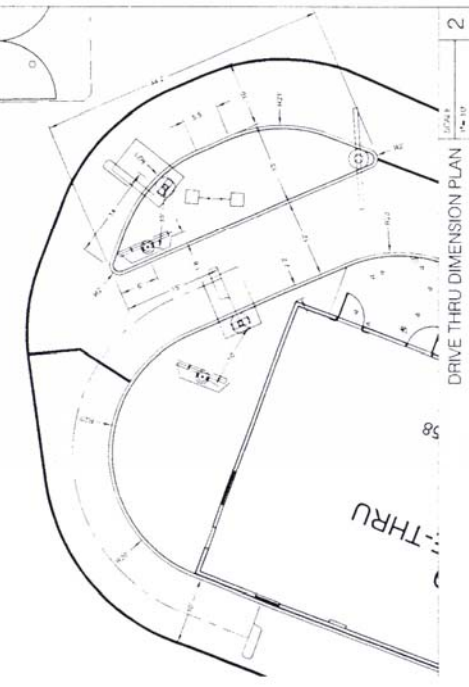
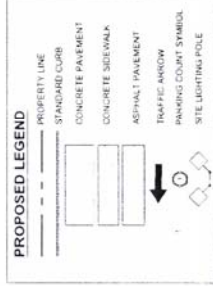
1. REFER TO SHEET C02 FOR GENERAL NOTES.
2. REFER TO SHEET C04 FOR DEMOLITION PLAN.
3. REFER TO SHEET C04 FOR GRADING AND DRAINAGE.
4. REFER TO SHEET C07 FOR UTILITY PLAN.
5. ALL DIMENSIONS ARE TO GROUND LEVEL. IMPROVE UNLESS NOTED OTHERWISE. REFER TO ARCHITECT.
6. ALL DIMENSIONS FROM PROPERTY LINES ARE PER CONTRACTOR TO DO ALL DISTURBED AREA LAKE.
7. ANY ADJACENT EXISTING LANDSCAPE MATERIAL TO BE MAINTAINED.
8. ALL LANDSCAPE AREAS ARE TO BE IRRIGATED WITH LOVE-MORNING.
9. ALL LANDSCAPE AREAS ARE TO BE IRRIGATED WITH LOVE-MORNING.
10. ALL LANDSCAPE AREAS ARE TO BE IRRIGATED WITH LOVE-MORNING.
11. ALL LANDSCAPE AREAS ARE TO BE IRRIGATED WITH LOVE-MORNING.
12. REFER TO ARCHITECTURAL SHEETS FOR ALL BUILDING FOUNDATION PLANS AND DETAILS.



PROJECT DATA	
PROJECT ADDRESS:	2875 S.E. POWELL BLVD. PORTLAND, OR
OWNER/CLIENT:	ADAM BROSZKOWSKI - MCDONALD'S USA, LLC
OWNER'S ADDRESS:	12111 131 <sup>ST</sup> AVENUE NE, SUITE 103, KIRKLAND, WA 98033
SITE GROSS SQUARE FOOTAGE:	33,773 SQ. FT. (0.77 AC)
GROSS FLOOR AREA:	1,000 SQ. FT.
PARKING:	PROPOSED
RESTAURANT:	1 PER 250 SF OF GFA MIN. x 1 = 4
ADA SPACES:	1 PER 63 SF OF GFA MIN. x 62 = 21
TOTAL SPACES:	16
BIKE:	4
FORMER DISTRICT:	CG
PANEL #:	7300 7300 7100 & 1000



**LOCATION MAP**  
NOT TO SCALE



**\*Approved\***  
 City of Portland - Bureau of Development Services  
 Planner S. Krugoli Date Feb. 3, 2014  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

