



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

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Date: August 4, 2014
To: Interested Person
From: Sylvia Cate, Land Use Services
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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 14-158051 AD

GENERAL INFORMATION

Applicant: Scott Jackson, Main Contact / LRS Architects
 720 NW Davis St Suite 300 / Portland, OR 97209

Property Owner: Scott Shanks / Woodstock Retail II LLC
 8129 Lake Ballinger Way #104 / Edmonds, Wa 98026-9182

Site Address: 4500-4504 SE WOODSTOCK BLVD

Legal Description: BLOCK 22 W 85' OF LOT 3 W 1/2 OF LOT 4, WOODSTOCK; BLOCK 22 W 1/2 OF LOT 1 E 1/2 OF LOT 4, WOODSTOCK

Tax Account No.: R928901060, R928901100

State ID No.: 1S2E18CC 00300, 1S2E18CC 00200 **Quarter Section:** 3635

Neighborhood: Woodstock, contact Terry Griffiths at 503-771-0011.

Business District: Woodstock Community BA, Sean Daugherty at 503-754-2636.

District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.

Zoning: CS, Storefront Commercial

Case Type: AD, Adjustment

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

Proposal:
 The applicant proposes to redevelop the site with a new core and shell for a two-story retail grocery store with associated offices, roof deck, and below grade parking for 56 vehicles. The applicant proposes an at-grade loading dock with access from SE 45th Avenue. Per the zoning code, at 33.266.310.f, loading docks must be designed so that vehicles enter and exit the site in a forward motion. Due to the constrained size of the site, the applicant requests an Adjustment to waive the requirement to enter or exit the proposed loading dock in a forward motion. Attached to this Decision are a zoning map and a site plan depicting the request.

Relevant Approval Criteria:
 In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are:

- 33.805.040.A.-F., Adjustments

ANALYSIS

Site and Vicinity: The site is a relatively flat 23,500 square foot parcel developed with a single story store front constructed circa 1925. The site has frontages on SE Woodstock, SE 45th Avenue, and SE St. Martins Street. A few single dwelling residences surround the storefront on the east and southeast sides; another single dwelling residence is across SE 45th Avenue from the proposed on-site loading zone. Other properties across SE 45th from the loading dock are zoned commercial and developed with commercial uses. Along SE Woodstock are a number of lots and parcels in various commercial zones, and developed with commercial uses.

Zoning: The Storefront Commercial (CS) zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone intends that new development in these areas will be compatible with this desired character. The zone allows a full range of retail, service and business uses with a local and regional market area. 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. The desired character includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

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

A “Notice of Proposal in Your Neighborhood” was mailed **July 2, 2014**.

Agency Review: The following Bureaus have responded with no issues or concerns:

- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division
- Bureau of Environmental Services
- The Bureau of Transportation Engineering

Neighborhood Review: One written response has been received from the Neighborhood Association stating support of the overall project, and requesting consideration of applying some conditions of approval that could enhance pedestrian safety. After discussing the potential for an audible alarm with the property owner who owns all the lots directly across SE 45th, who would be most impacted by audible alarms, the Neighborhood Association sent an additional comment noting that they were withdrawing the recommendation for audible alarms. (Exhibits F.1 and F.2)

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (Adjustments)

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

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 purpose for the regulation to be adjusted is found at 33.266.310.A., which states:

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

The proposed on-site loading space will be located on the ground floor near the rear of the new storefront building. An access ramp with approximately 8% slope leads to the unloading/dock area. As such, this loading space does not appear to be a parking area because it will be fully enclosed within the building and thus not visible to passersby. However, the requested Adjustment seeks approval to allow trucks to back into the loading space.

The Portland Bureau of Transportation has reviewed the proposal and offers the following analysis:

PBOT has no objection to approval of the adjustment. Smaller loading vehicles will safely be able to back into the loading space and pull out in a forward manner. The neighborhood association has rescinded their recommendation for a visual/audio warning system after speaking with the owner of the single-family residence across the street from the loading space due to potential annoyance to that resident caused by the visual/audio warning during all hours of the day. The commercial vehicles using the loading space will have the typical audio warning when backing into the space.

For these reasons, 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: The site is zoned CS, Storefront Commercial. The proposal has no conflicts with the classifications of the adjacent streets. The desired character of the CS zone is described as:

The Storefront Commercial (CS) zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone intends that new development in these areas will be compatible with this desired character. The zone allows a full range of retail, service and business uses with a local and regional market area. 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. The desired character includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

The Woodstock Neighborhood has a Neighborhood Plan, adopted by City Council in 1995. The overall project is consistent with the economic development policies of the neighborhood plan in that the storefront grocery store will further animate the Woodstock Village area and will draw local residents to the area for goods. The Adjustment request appears to be consistent with the overall Woodstock Neighborhood Plan, although there are no specific policies that directly relate to the request.

The overall project is a storefront development housing a new grocery store for the neighborhood. The loading dock will be housed inside the building, consistent with the predominantly built up surrounding development. With delivery trucks automatically sounding an audible alarm when placed in reverse for backing out, the proposal protects pedestrians along the SE 45th frontage. For these reasons, 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: Only one adjustment is requested. This 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: There are no discernible impacts that would result from granting the requested adjustment. 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: Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As the site is not within 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 or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant requests an Adjustment to waive the requirement to enter or exit the proposed loading dock in a forward motion. The proposal meets all of the applicable approval criteria, and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of:

- An Adjustment to waive the requirement to enter or exit the proposed loading dock in a forward motion (33.266310.f), per the approved site plan, Exhibit C-1, signed and dated July 30, 2014, 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. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-158051 AD."

Staff Planner: Sylvia Cate

Decision rendered by: _____ **on July 30, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 4, 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 May 16, 2014, and was determined to be complete on June 27, 2014.

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 May 16, 2014.

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: October 25, 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 August 18, 2014** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to

2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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 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 **August 19, 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 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:

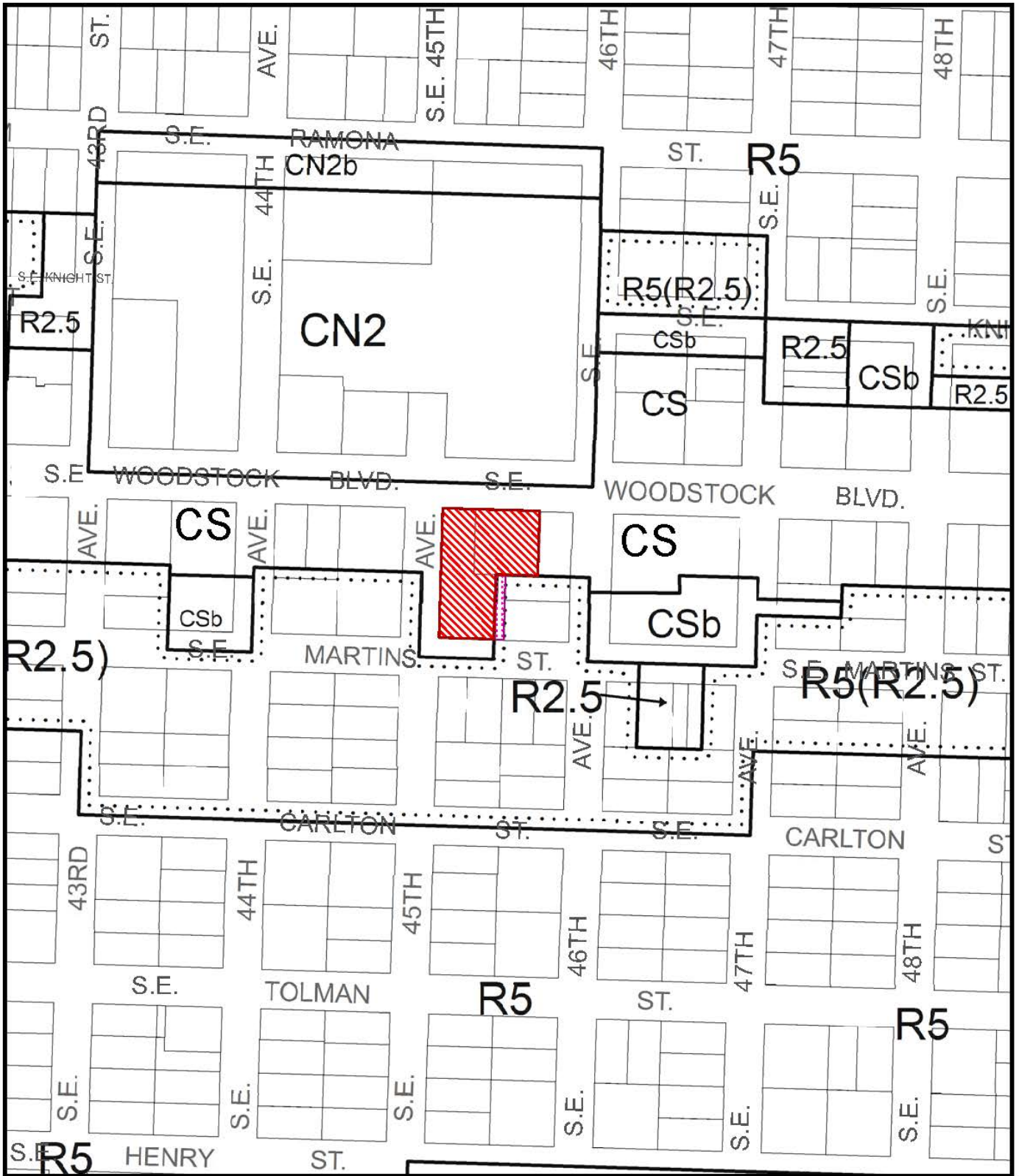
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Woodstock Neighborhood Association, July 18, 2014, Overall support of project, but with concerns regarding truck turning movements
 - 2. Terry Griffiths, email, July 30, 2014, discussion regarding audible alarms
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete letter

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
-  Also Owned



File No. LU 14-158051 AD
 1/4 Section 3635
 Scale 1 inch = 200 feet
 State_Id 1S2E18CC 200
 Exhibit B (May 22, 2014)



A101

SHEET:

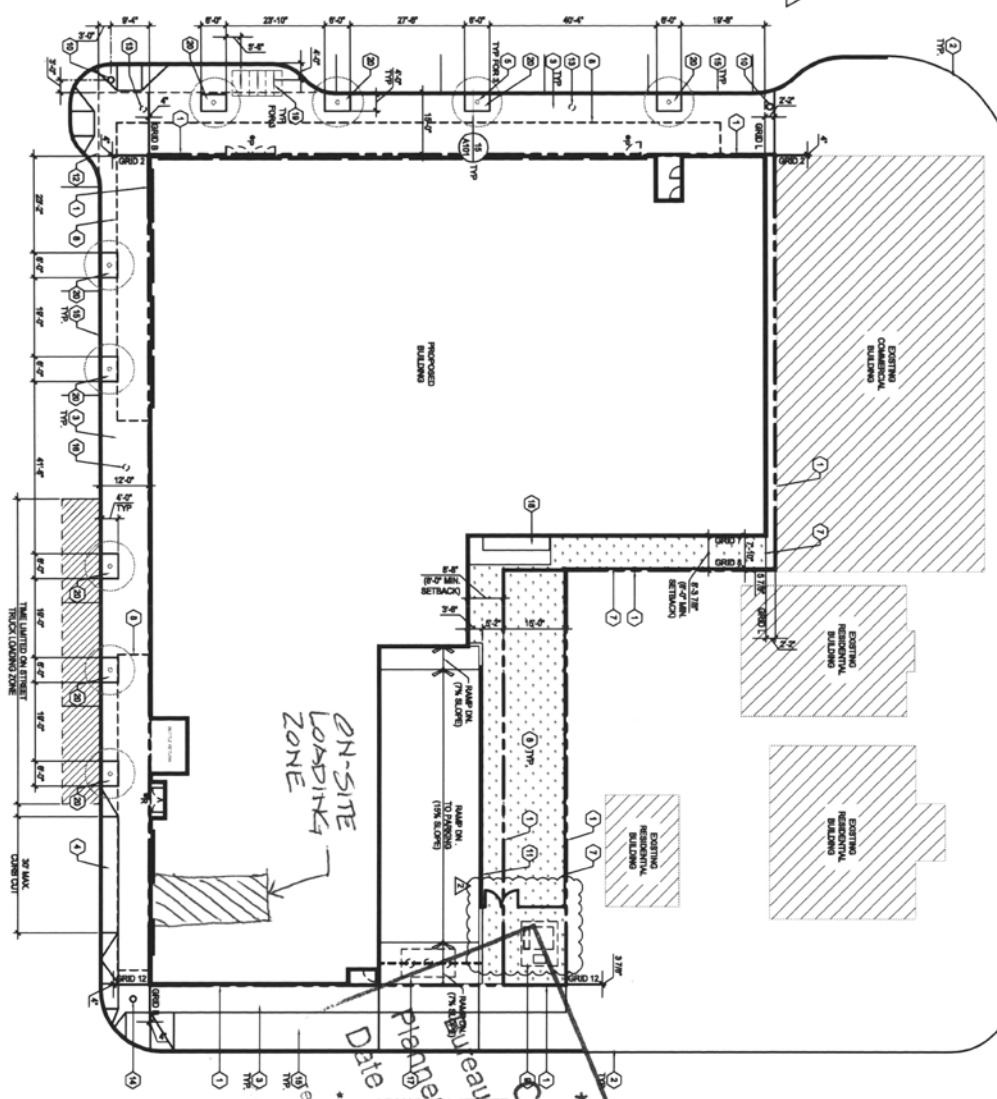
12. SITE PLAN

SCALE: 1/8" = 1'-0"

SE 45TH AVENUE

SE WOODSTOCK BOULEVARD

SE 46TH AVENUE



MISCELLANEOUS REVISIONS 03.02.2014
 PLAN CHECK REVISIONS 03.02.2014
 DRAWN BY: SJ/CPW
 DATE ISSUED: 02.17.2014

City of Portland
 Date: 7/30/2014
 Approved by: [Signature]
 City of Portland Development Services
 * Approved *
 SITEMAN / DEVELOPMENT SERVICES
 This approval applies only to the conditions of approval. This approval is subject to all applicable zoning regulations and may require additional zoning realizations.

NEW SEASONS MARKET
 SE WOODSTOCK & 45TH AVE.
 PORTLAND, OR

- GENERAL NOTES**
- A. SITE INFORMATION IS BASED ON SURVEY DATED ALMOST 30 YEARS BY RESPECTED AND ASSOCIATES, INC. LAND SURVEYORS.
 - B. GENERAL CONTRACTOR TO VERIFY LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO BEGINNING OF NEW WORK.
 - C. FINISH FLOOR ELEVATION = 34.00. SEE CIVIL FOR ALL SITE ELEVATIONS AND GRASSES. FOR ADDITIONAL INFORMATION SEE FLOOR PLAN.
 - D. SEE CODE ANALYSIS PLAN FOR EXISTING / OCCUPANCY INFORMATION.
 - E. SEE EXISTING ELEVATIONS FOR BUILDING SIGNAGE.
- LEGEND**
- SITE PROPERTY BOUNDARY
 - ▭ BUILDING
 - ▨ CONCRETE SIDEWALK IN CA
 - ▩ LANDSCAPE AREA
 - ⊕ PUBLIC ENTRY ON
 - ⊙ ACCESSIBLE ROUTE
 - ⊞ RESTRICTED ENTRY ON
 - ⊟ ACCESSIBLE ROUTE
- KEY NOTES**
- ① PROPERTY LINE
 - ② EXISTING CURB
 - ③ NEW TRANSFORMER WALK
 - ④ NEW CONCRETE SIDEWALK WITH INTERNAL CONCRETE BOUNDARY TO EXISTING TRANSFORMER STAIRCASE. SEE CIVIL.
 - ⑤ NEW WALKER WALL / CHAIN LINK FENCE WITH INTERIOR STAIRS. SEE CIVIL & LANDSCAPE.
 - ⑥ NEW LANDSCAPE AREA. SEE LANDSCAPE.
 - ⑦ NEW CHAIN LINK FENCE. SEE LANDSCAPE.
 - ⑧ LINE OF NEW CANOPY ABOVE.
 - ⑨ NEW TRANSFORMER WALK.
 - ⑩ NEW WOOD UTILITY POLE. SEE CIVIL.
 - ⑪ NEW WALKER WALL / CHAIN LINK FENCE. SEE LANDSCAPE.
 - ⑫ PROFILE OF BELOW GRADE PARKING ENCROACHMENT.
 - ⑬ REMOVE EXISTING UTILITY POLE. EXISTING UTILITY POLE TO BE RELOCATED.
 - ⑭ NEW CONCRETE CURB. SEE CIVIL.
 - ⑮ EXISTING UTILITY POLE TO BE REMOVED AND NEW UTILITY LOCATION ADDRESS SE 45TH AVE.
 - ⑯ NEW UNDERGROUND GROUND INTERCEPTION. SEE CIVIL.
 - ⑰ NEW ELECTRICAL SWITCHGEAR WITH CONCRETE PAD. SEE CIVIL.
 - ⑱ BIKE RACK. SEE LANDSCAPE.
 - ⑳ NEW TREE WELL. SEE LANDSCAPE.

LU 14-158 051AD