



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

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Date: July 30, 2021
To: Interested Person
From: Marguerite Feuersanger, 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**, with conditions, a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. 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 21-018870 AD

GENERAL INFORMATION

Applicant: Tony McCormick
Meyer Sign Co of Oregon Inc
15205 SW 74th Avenue
Tigard OR 97224
(971) 247-4325
permits@MeyerSignCo.com

Tenant: Jersey Mike's Subs
1450 NE 122nd Avenue
Portland, OR 97230

Owner: Goodwill Industries Of The Columbia Willamette Inc.
1943 SE 6th Ave.
Portland, OR 97214-4508

Site Address: 1450 NE 122nd Avenue

Legal Description: LOT 1, PARTITION PLAT 2012-27
Tax Account No.: R649631050
State ID No.: 1N2E35BB 00701
Quarter Section: 2943

Neighborhood: Hazelwood, contact Arlene Kimura at arlene.kimura@gmail.com
Business District: Gateway Area Business Association, contact at gabapdxboard@gmail.com
District Coalition: East Portland Community Office, contact at 503-823-4550.

Zoning: CE, Commercial Employment Zone

Case Type: AD, Adjustment

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

Proposal: The applicant is requesting an Adjustment to increase the maximum sign area for the southernmost tenant space in the existing one-story building on the northwest corner of the site. Each tenant is allotted an allowed sign area based on the length of the primary building wall (Section 32.38.020 and Table 2 of the Sign Code). In this case, the subject tenant space has 38 feet of primary building wall (building wall length of tenant space along NE 122nd Avenue), which allows up to 38 square feet of sign area in total for any number of signs. The applicant's request is for three front-lit LED signs on the exterior building walls of the tenant space as follows:

- **Sign #1, East** (facing parking area): 20 square feet
- **Sign #2, South** (facing driveway): 30 square feet
- **Sign #3, West** (facing NE 122nd Avenue): 30 square feet

Therefore, the applicant is requesting an Adjustment to increase the maximum sign area from 38 square feet to 80 square feet.

Relevant Approval Criteria:

To be approved, this proposal must comply with the approval criteria of Title 33, which refers to the Sign Adjustment Criteria in Title 32. The relevant criteria are found in Section 32.38.030.C.

ANALYSIS

Site and Vicinity: The 162,251 square foot site (3.72 acres) is located at the southeast corner of the intersection of NE Halsey Street and NE 122nd Avenue. Northeast Wasco Street borders the site to the south. The flat site is currently developed with three buildings:

- The subject building, a one-story, 5,092 square foot retail building with three tenant spaces, located at the northwest corner of the site and built to the street lot line along both NE Halsey Street and NE 122nd Avenue. The subject tenant, Jersey Mike's, is located at the south portion of this building.
- A two-story 21,605 square foot medical office building located to the south of the subject building and at the street lot lines along NE 122nd Avenue and NE Wasco St.
- A single-story, 24,238 square foot retail building located at the east portion of the site, approximately 200 feet east of the subject building.

While the site contains three buildings, most of the site area is developed with surface parking and vehicle circulation. Landscaping is located around the perimeter and within the interior of the parking area.

The surrounding area is developed primarily with a mix of commercial uses, including retail stores, coffee shops, offices, fueling stations, and vehicle sales. Sites are developed with one- or two-story commercial buildings and contain a significant amount of surface parking area, similar to the subject site. Building setbacks along NE 122nd vary greatly; some buildings are located near the street while others are set back from the street nearly 300 feet to accommodate vehicle access and parking.

While development is predominantly auto-accommodating, both NE Halsey Street and NE 122nd Avenue provide bus service. TriMet bus line #73 serves NE 122nd Avenue and provides frequent service; TriMet bus line #77 serves NE Halsey Street. Streets adjacent to the site are developed with curbs and sidewalks.

Zoning: The Commercial Employment (CE) zone is a medium-scale zone intended for sites along corridors with a Neighborhood Collector or higher traffic classification, especially along

civic corridors that are also Major Truck Streets or Priority Truck Streets. This zone is generally not appropriate in designated centers, except on a site that is currently developed in an auto-oriented manner and where more urban development is not yet economically feasible. The zone allows a mix of commercial uses, including auto-accommodating development and drive-through facilities, as well as some light manufacturing and distribution uses that have few off-site impacts. The emphasis of this zone is on commercial and employment uses, but residential uses are also allowed. Buildings in this zone will generally be up to four stories tall. This zone is intended to allow for development with auto-accommodating configurations, while also including pedestrian-oriented design features that support transit and pedestrian access.

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

- Adjustment review approval to increase the maximum building setback for the two-story medical office building at the southwest corner of the site (LU 13-108558 AD).
- Lot Consolidation approval to consolidate four parcels on the site into a single parcel (LU 11-177257 LC).

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **May 26, 2021**. The following Bureaus have responded with no issues or concerns:

- Fire Bureau (Exhibit E-1); and
- Site Development Section of BDS (Exhibit E-2).

The Life Safety Plan Review Section of BDS has no objection to the proposal but notes that the tenant improvement (building permit) is required (Exhibit E-3).

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

ZONING CODE APPROVAL CRITERIA

Sign Adjustment

32.38.030.C Adjustment Review

Sign adjustments will be approved if the review body finds that the applicant has shown that the criteria of Paragraph C.1. or 2, below are met.

C.1 Area enhancement. The applicant must meet criteria C.1.a and b. and either C.1.c. or d.

- a. The adjustment for the proposed sign will not significantly increase or lead to street level sign clutter, to signs adversely dominating the visual image of the area, or to a sign that will be inconsistent with the objectives of a specific plan district or design district; and

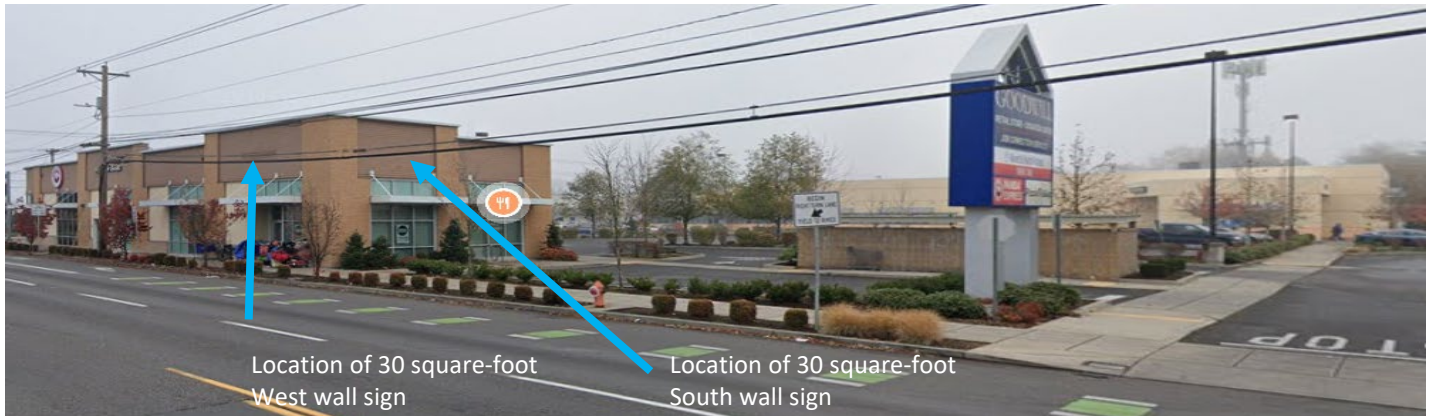
Findings: The site is not within a plan district and not within a design district. At one story in height, the subject building has 125 feet of building wall along NE 122nd and 40 feet of building wall along NE Halsey. It contains three tenant spaces. The subject tenant space is at the south portion of the building and includes three exterior walls. The maximum sign area allotted to each tenant is based on the length of the tenant’s primary building wall. For the subject tenant, the primary building wall is along NE 122nd Ave and is 38 feet in length, which translates into a maximum of 38 square feet of sign area (Exhibit C-2). The requested Adjustment is to increase the maximum size of allowed sign area for the subject tenant space to 80 square feet, for three wall signs.

West (NE 122nd) and East facing (parking area) proposed signs: A 30 square-foot wall sign is proposed on the west building wall and a 20 square-foot sign is proposed on the east building wall. As shown on the site plan, building elevations and detail sheets (Exhibits C-1 through C-5), the west and east wall signs are relatively modest in size and are consistent in size and placement with the other existing tenant's signage on the building. Because the tenant's main entrance is located on the west facing NE 122nd façade and viewed by moving traffic, it is appropriate for this sign to be somewhat larger than the east wall sign, which faces the site's interior parking area. The east wall sign is not visible from NE 122nd Avenue but can be partially seen from segments of NE Halsey Street, approximately 100 feet away. Further, the applicant states that the signs do not project from the building wall and are contained within the sign band area of the building (Exhibit A-4), reflecting the sign pattern established on the other tenant spaces and throughout the site.(?)

Based on the above, the proposed east and west signs will not result in street-level sign clutter or adversely dominate the visual image of the area.

South proposed sign: A third sign, at 30 square feet in area, is proposed on the south facing wall of the building. This building wall is 39 feet in length and faces a surface parking area and internal driveway of the site. Currently there are no signs on this south building wall, but a free-standing sign for the site's businesses is located approximately 65-feet south of the building. An aerial photograph of the subject building and view of the NE 122nd building frontage is shown below.





The view above of the south and west building walls as seen from NE 122nd Avenue demonstrates that the existing free-standing sign, in combination with existing and proposed west and south building wall signs results in excessive street-level visual sign clutter. A case could be made to eliminate the south wall sign entirely, given the location of the site's free-standing sign in front of it, given that it can be easily seen from NE 122nd, and given that the opposing north building wall facing NE Halsey has no signage. Early in the review process, staff encouraged the applicant to remove this sign from the proposal to limit the street-level sign clutter and satisfy the approval criteria. The applicant, however, argues that the proposed south sign is needed since the tenant's business is not represented on the free-standing sign, and that the proposed 30-square foot sign is not excessive given the size of existing signs on the building and other buildings near the site.

A reasonable solution is to allow the south wall sign, but limit its area to 20 square feet, to be on par with the proposed east wall sign. Both the south and east building walls are "secondary" building walls since they are not street-facing walls. In the hierarchy, the west wall is the "primary" building wall as it faces NE 122nd and therefore is the largest of the three signs. Limiting the south wall sign to 20 square feet also results in a more balanced percentage of sign area on the west and south building walls (The south wall sign area is reduced from 3.75 percent to 3 percent. The west wall sign area is nearly 3 percent). Note that the proposed shape and location of the south wall sign is consistent with the other existing and proposed signs on the building. Staff discussed reducing the area of the south wall sign with the applicant, who prefers this solution rather than eliminating the sign altogether.

With a condition of approval that limits the south wall sign to no greater than 20 square feet in area, this criterion is met.

- b. The sign will not create a traffic or safety hazard; and

Findings: The proposed west and south wall signs can be seen from NE 122nd. Each sign is appropriately placed on the building wall consistent with the sign program for the other tenants' signs and with the condition to limit the south wall sign to 20 square feet as described in Criterion C.1.b above, are moderate in size. The east wall sign faces the interior parking area on the site and is not readily viewed from NE Halsey Street. None of the proposed signs can be readily viewed from NE Wasco Street at the site's south property line. The proposed signs do not have features that are likely to cause a distraction for drivers, such as electronic displays or moving images, and do not extend into the right-of-way. Based on the above, traffic or safety hazards are not anticipated from this Adjustment. This criterion is met.

- c. The adjustment will allow a unique sign of exceptional design or style that will enhance the area or that will be a visible landmark; or
- d. The adjustment will allow a sign that is more consistent with the architecture and development of the site.

Findings: The placement of the proposed signs is consistent with the building's architecture, as they are within the "sign band area" of the façade, a discrete area above the awnings. The signs do not interfere with the vertical brick column design elements that visually break up the façade and add interest. The rectangular and oval sign shapes are consistent and compatible with existing signs on the building. The south wall sign, however, should be reduced in area, from 30 square feet to 20 square feet, to ensure that the cumulative impact of three signs for a sign tenant do not overwhelm the building. A smaller sign on the south wall reflects the secondary nature of the south facing building wall. Other buildings on the site are more than 100 feet away from the subject building and appear to be separate and unrelated developments. Therefore, the proposal does not affect the other development of the site. Based on the above, and with the condition to reduce to the south wall sign to 20 square feet, this criterion is met.

C.2 Site Difficulties.

Findings: Criterion C.2 is allowed as an alternative to criterion C.1 for sites with difficulties achieving direct signage visibility due to site constraints (e.g. on a long flagpole-like site with a limited amount of street frontage). The subject building and proposed signage are clearly visible from NE 122nd Avenue, and therefore, this criterion does not apply.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards 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 proposal includes three wall signs associated with a new tenant in the subject one-story commercial storefront building. A total of 80 square feet of sign area is proposed, exceeding the maximum 38 square feet allowed by the Sign Code. The south wall sign must be reduced in area to reduce street-level sign clutter, and to be consistent with the building's architecture. With the west wall sign at 30 square feet, and the east and south wall signs at 20 square feet, the signs will be consistent with existing signs on the building. As conditioned, the proposal meets the approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum sign area from 38 square feet to 70 square feet for the tenant space at the south portion of the subject building (Section 32.38.020), per the approved site plans, Exhibits C-1 through C-6, signed and dated July 28, 2021, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition B must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 21-018870 AD." All requirements

must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

- B. The south wall sign shown in Exhibits C-1 and C-6 must be reduced in area to no greater than 20 square feet. Other proposed features of the sign, such as placement on the façade and shape, are approved. Sign details for the south wall sign shall be consistent with details of the west and east wall signs shown in Exhibits C-3 and C-5.

Staff Planner: Marguerite Feuersanger

Decision rendered by:  **on July 28, 2021.**

By authority of the Director of the Bureau of Development Services

Decision mailed: July 30, 2021.

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

Procedural Information. The application for this land use review was submitted on February 26, 2021 and was determined to be complete on May 17, 2021.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on February 26, 2021.

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 September 14, 2021.**

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, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on**

August 13, 2021. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision. If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **August 13, 2021** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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.

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:

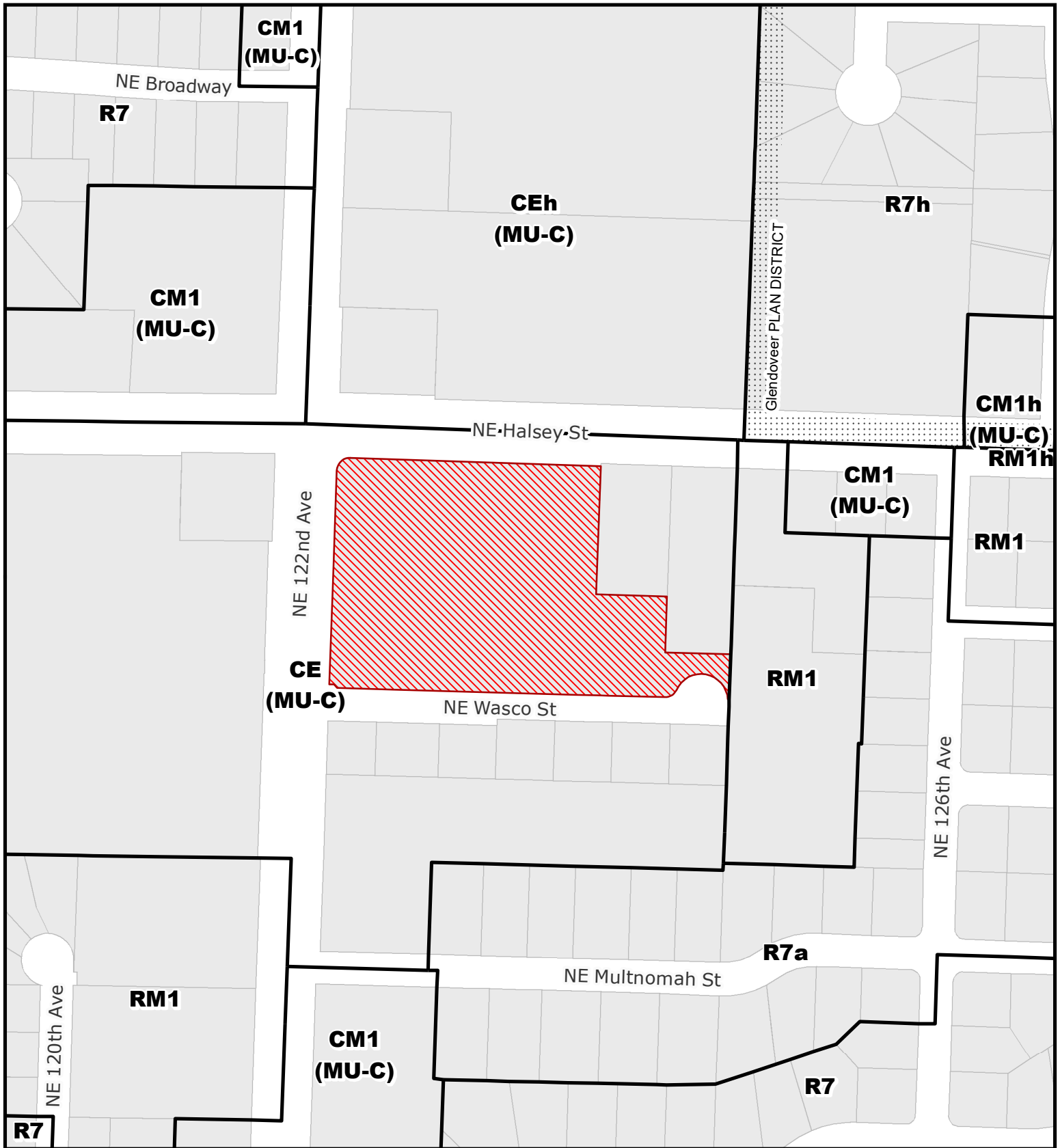
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Original submittal, February 26, 2021
 - 2. Revised submittal, March 10, 2021
 - 3. Revised submittal, April 30, 2021
 - 4. Revised submittal, May 18, 2021
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. West Elevation Sign (attached)
 - 3. West Elevation Sign Details (attached)
 - 4. East Elevation Sign (attached)
 - 5. East Elevation Sign Details (attached)
 - 6. South Elevation Sign (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Fire Bureau
 - 2. Site Development Review Section of BDS
 - 3. Life Safety Plan Review Section of BDS
- F. Correspondence:
 - None.
- G. Other:
 - 1. Letter to applicant regarding incomplete application, March 17, 2021
 - 2. Second letter to applicant regarding incomplete application, May 5, 2021

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 
NORTH

 Site

File No.	<u>LU 21 - 018870 AD</u>
1/4 Section	<u>2943</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1N2E35BB 701</u>
Exhibit	<u>B</u> Feb 26, 2021