



**OFFICE OF CITY AUDITOR  
CITY OF PORTLAND**

**LaVonne Griffin-Valade, City Auditor  
Council/Contracts Division**

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January 31, 2012

**NOTICE OF DECISION**

**RE CASE FILE: LU 11- 103310 CP ZC AD**

Consider the proposal of Safeway, Inc. and the recommendation from the Hearings Officer for approval with conditions, of a Comprehensive Plan Map, Zoning Map Amendment and adjustment to replace the existing 21,665 square foot building with a new 62,925 square foot, 2-story grocery store at 8039 SW Capitol Hill Road and 8145 SW Barbur Blvd. (Hearing; LU 11-103310 CP ZC AD)

**To Whom It May Concern:**

On January 26, 2012, at approximately 3:00 p.m., at a regularly scheduled meeting in Council Chambers, the Council voted 5-0 and passed Ordinance No.185124.

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with the Board within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. The Board's address is: Public Utility Commission Building, 550 Capitol Street NE, Suite 235, Salem, OR 97310-2552. You may call the Land Use Board of Appeals at 1-503-373-1265 for further information on filing an appeal.

Yours sincerely,

LaVonne Griffin-Valade  
Auditor of the City of Portland

By:

Karla Moore-Love, Council Clerk

Enc.

## ORDINANCE No. 185124

\*Amend the Comprehensive Plan Map designation and change zoning of two lots in the vicinity of 8039 SW Capitol Hill Road and 8145 SW Barbur Blvd at the request of Diane Phillips of Safeway, Inc. (Ordinance; LU 11-103310 CP ZC AD)

The City of Portland ordains:

Section 1. Council finds:

1. The Applicant seeks, in the vicinity of 8039 SW Capitol Hill Road and 8145 SW Barbur Boulevard, the following:
  - a. Comprehensive Plan Map Amendments from Medium-Density Multi-Dwelling Residential to General Commercial for the areas identified as State ID No. 1S1E21CB 4301 and State ID No. 1S1E21CB 4302, legally described as Lot 1 and Lot 2 of Partition Plat 2003-21, a recorded plat in Multnomah County (hereinafter referred to as the "Properties"); and
  - b. Zoning Map Amendments from Residential 1,000 (R1) to General Commercial (CG) for the Properties; and
  - c. an Adjustment for the Properties and the property described as TL 4200 of Section 21 1S 1E (State ID No. 1S1E21CB 04200)(hereinafter "TL 4200") to reduce the required landscaping area (33.130.225.B) from 15 to 14.4 percent for the construction of a new full-service grocery store, per the approved plans, Exhibits C.1 through C.3 to the Recommendation of the Hearings Officer.
2. An application complying with all requirements of Title 33, Planning and Zoning, of the Code of the City of Portland seeking amendment of the Comprehensive Plan Map, Zoning Map, and Adjustment has been received with the proper fee for filing paid.
3. The Hearings Officer held a duly noticed public hearing on September 7, 2011, and a Recommendation was issued on October 21, 2011, (BDS File No. LU 11-103310 CP ZC AD). The Hearings Officer recommended approval of the requested Comprehensive Map Amendments, Zoning Map Amendments, and Adjustment, with conditions.
4. The requested Comprehensive Plan Amendments, Zoning Map Amendments, and Adjustment, based on the findings contained in the Recommendation of the Hearings Officer, are found to be in conformance with the Comprehensive Plan and relevant Title 33 approval criteria.

NOW THEREFORE, the Council directs:

- a. City Council adopts the facts, findings, conclusions and recommendations of the Hearings Officer in BDS File No. LU 11-103310 CP ZC AD.
- b. The Comprehensive Plan Map Amendments, Zoning Map Amendments, and Adjustment for the Properties legally described as Lot 1 and Lot 2 of Partition Plat 2003-21, a recorded plat in Multnomah County, are approved as follows:
  1. Comprehensive Plan Map Amendments from Medium-Density Multi-Dwelling Residential to General Commercial for the Properties.
  2. Zoning Map Amendments from Residential 1,000 (R1) to General Commercial (CG) for the Properties.
  3. the Comprehensive Plan Map and Zoning Map Amendments are subject to the conditions below. Any violation of these conditions shall be subject to the enforcement procedures in the City code but, with the exception of Condition 3.A, will not void the Comprehensive Plan Map and Zoning Map Amendments:
    - A. Prior to, or concurrent with recording a decision of approval with Multnomah County, the Applicant must execute and record a covenant which mitigates for the 20 units of lost housing potential. Per 33.703.120, prior to the City making any changes to the Comprehensive Plan Map or Zoning Map, documentation must be submitted by the Applicant that shows that both the Comprehensive Plan Map/Zoning Map amendment decision and the covenant have been recorded.
    - B. Prior to building permit issuance, the Applicant must consolidate the three lots (the Properties and TL 4200) via a Lot Consolidation Review (33.675.100) and record the decision with the County. Or the Applicant must consolidate the lots through a County Tax Account Consolidation and submit covenants for future easements and joint maintenance agreements for the private utilities that cross property lines.
    - C. As part of the building permit application submittal, the following development-related conditions (D through G) must be noted on each of the four 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 11-103310 CP ZC AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
    - D. Surveillance cameras must be installed to monitor the area located between the west property line and the loading area located at the back of the building.
    - E. The Applicant shall be required to construct the frontage improvements identified in this report under the Section titled Street Improvements (Chapter 17.88) to City standards, per the requirements of the City Engineer. As a condition of building permit approval, the Applicant shall provide all dedications necessary to provide

adequate right-of-way for these frontage improvements. The frontage improvements must be constructed under separate street job permits to current City and ODOT standards. Financial guarantees ensuring the frontage improvements shall also be conditions of building permit approval.

- F. Speed bumps and/or other traffic calming measures must be provided along the on-site delivery roadway to limit both vehicular speeds and cut-through traffic.
- G. Uses on the site are limited to a total of 450 new weekday p.m. peak hour trips. Square footage equivalencies are to be applied per Table 1 below. The Applicant must submit a written verification at time of building permit that all uses on the site, both existing and proposed, have a maximum net new weekday p.m. peak hour trip generation of 450 trips. This applies to the combined three lots identified as the site.

**Table 1. Weekday PM Peak Hour Trip Rates for Trip Cap Comparison**

Land Use Category	ITE Code	Building Size	ITE Trip Rate	ITE PM Peak Hour Pass-by Rate	Weekday PM Peak Hour Net New Trip Rate*
Daycare	565	1,000 sq.ft. GFA	12.46	-	12.46 trips/1,000 sq. ft.
Office	710	1,000 sq.ft. GFA	1.49	-	1.49 trips/1,000 sq. ft.
Specialty retail	814	1,000 sq.ft. GLA	2.71	34%**	1.79 trips/1,000 sq. ft.
Hardware/paint store	816	1,000 sq.ft. GFA	4.84	-	4.84 trips/1,000 sq. ft.
Nursery/garden center	817	1,000 sq.ft. GFA	3.80	-	3.80 trips/1,000 sq. ft.
Shopping center	820	1,000 sq.ft. GLA	3.73	34%	2.46 trips/1,000 sq. ft.
Supermarket	850	1,000 sq.ft. GFA	10.50	36%	6.72 trips/1,000 sq. ft.
Drive-in bank	912	1,000 sq.ft. GFA	25.82	47%	13.68 trips/1,000 sq. ft.
High-turnover sit-down restaurant	932	1,000 sq.ft. GFA	11.15	43%	6.36 trips/1,000 sq. ft.
Fast food restaurant with drive-through	934	1,000 sq.ft. GFA	33.84	50%	16.92 trips/1,000 sq. ft.

\*Based on *Trip Generation, 8<sup>th</sup> Edition*, published by the Institute of Transportation Engineers (ITE). Net new trip rate reflects ITE trip rate less pass-by trips per the *ITE Trip Generation Handbook, 2<sup>nd</sup> Edition*.

\*\* Includes an assumed 34% pass-by rate, based on ITE Shopping Center

GLA=Gross Leasable Area

GFA= Gross Floor Area

- H. The Applicant shall install a “ladder” style crosswalk pavement marking along with pedestrian crossing signs and supplemental downward arrow placards at the reconstructed SW Multnomah Boulevard pedestrian crossing. The condition is contingent upon the Applicant seeking and obtaining approval of all agencies with

jurisdiction over the roadway and crosswalk.


- I. Safeway trucks must use only streets that are classified as designated truck access streets in the City's Transportation Systems Plan.
4. Adjustment for the Properties and TL 4200 to reduce the required landscaping area (33.130.225.B) from 15 to 14.4 percent for the construction of a new full-service grocery store, per the approved plans, Exhibits C.1 through C.3 to the Recommendation of the Hearings Officer, subject to the following conditions:
  - A. The requested Comprehensive Plan Map and Zoning Map Amendment Approval from Medium-Density Multi-Dwelling Residential (R1) to General Commercial (CG) for the Properties must be approved and recorded.
  - B. As part of the building permit application submittal, the following development-related conditions (C and D) must be noted on each of the four 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 11-103310 CP ZC AD."
  - C. The plant material schedule on the landscape plan (Exhibit C.2 to the Recommendation of the Hearings Officer) must be amended to show that at least 60 percent of the plants to be installed on the site will be native, selected from the Portland Plant List.
  - D. The landscaping and related improvements including the tall wall, located near the western property line, walkways, plaza areas and trellises must be completed in substantial conformance with the approved site plan and landscape plans, Exhibits C.1 - C.3 to the Recommendation of the Hearings Officer.

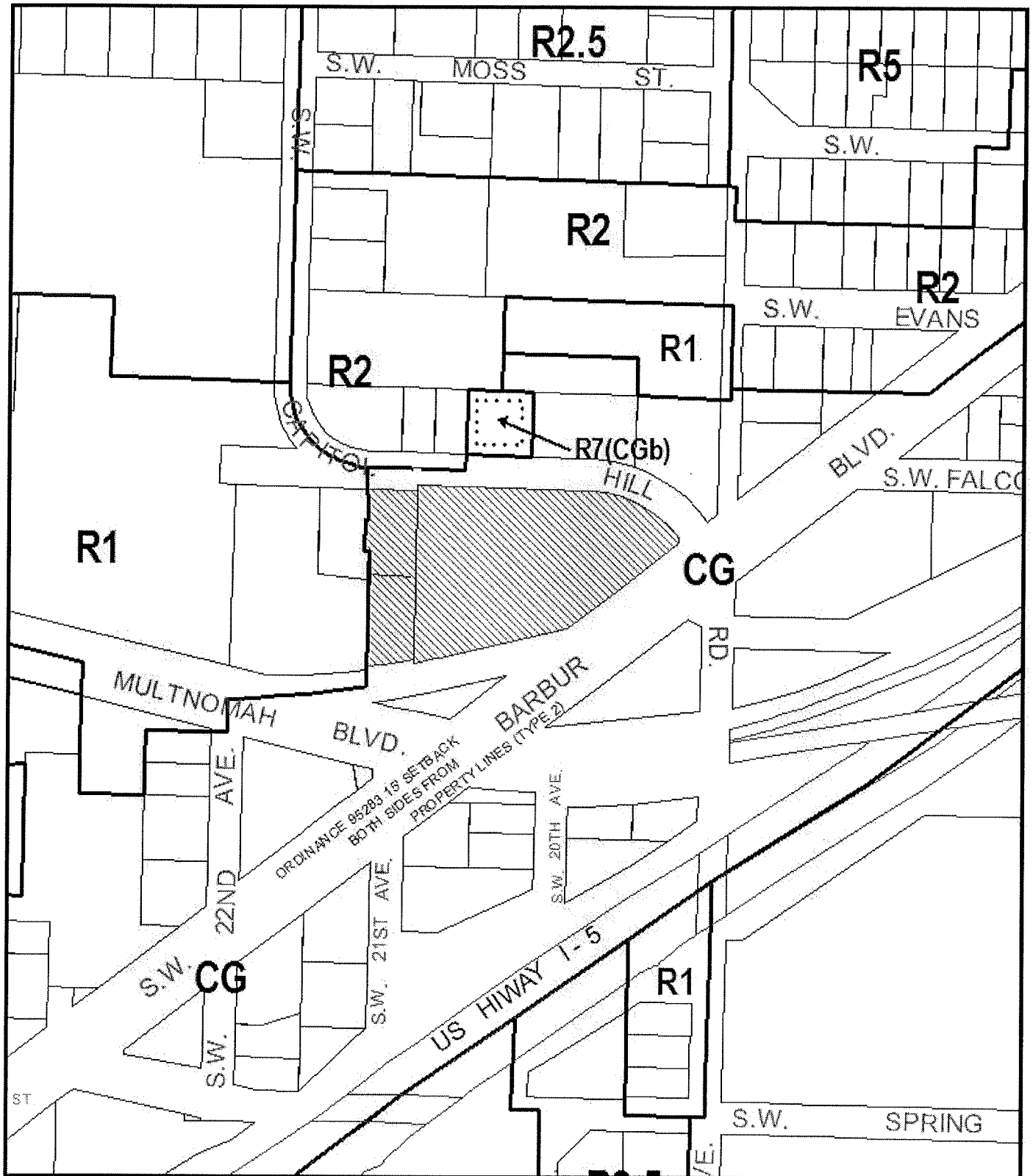
Section 2. The Council declares an emergency exists because there should be no delay in the beneficial use of the above-described properties; therefore, this ordinance shall be in full force and effect from and after its passage by the Council

Passed by the Council: JAN 26 2012

City Auditor LaVonne Griffin-Valade  
 Prepared by: Kenneth D. Helm/rs  
 Date Prepared: November 30, 2011

**LaVonne Griffin-Valade**  
 Auditor of the City of Portland  
 By

  
 Deputy



# ZONING PROPOSED

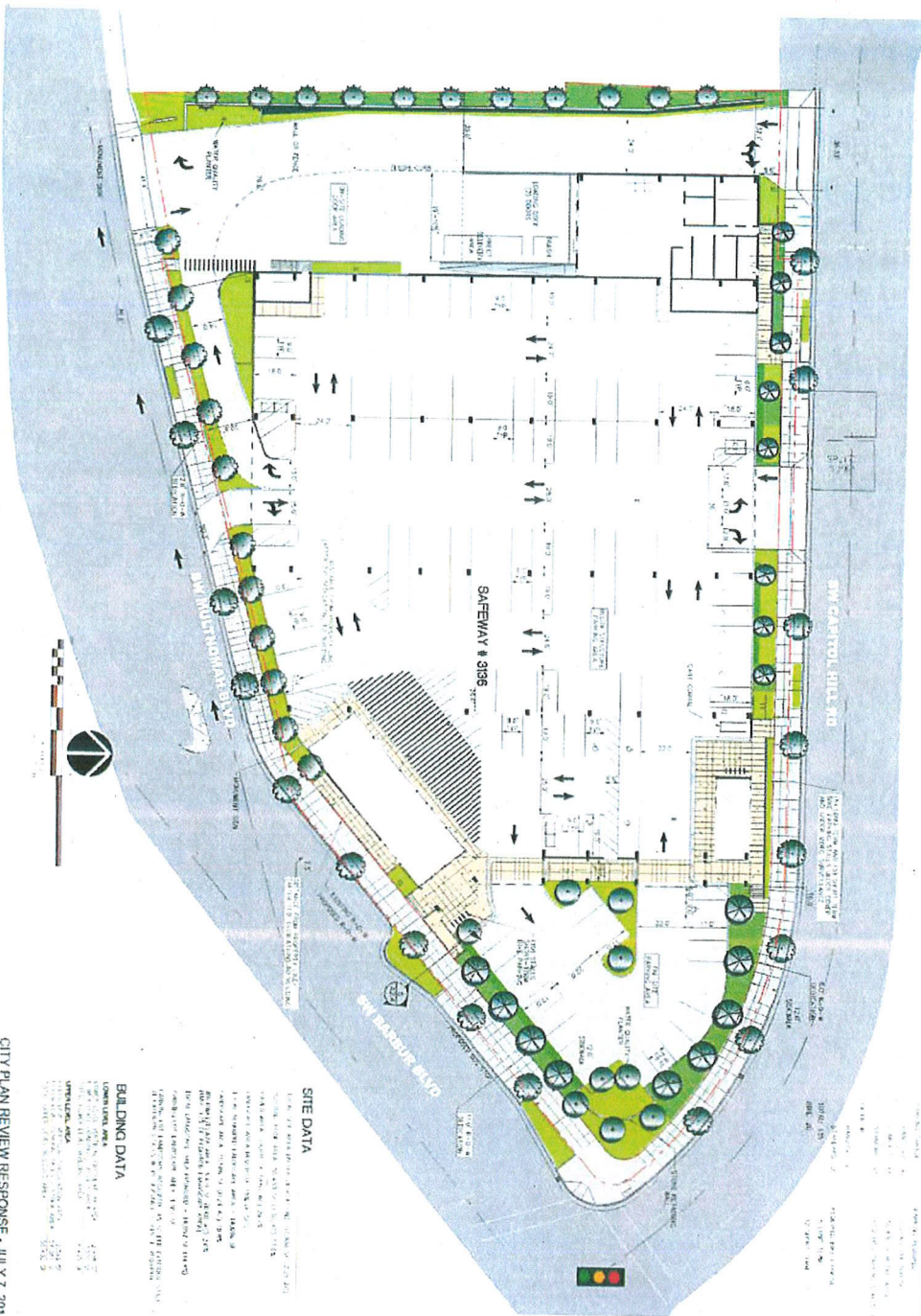
 Site



File No.	LU 11-103310 CP,ZC AD
1/4 Section	3827
Scale	1 inch = 200 feet
State_Id	1S1E21CB 4200
Exhibit	B (Jan 13, 2011)



17



**PARKING DATA**

TYPE	NO.	TOTAL
STREET	1	1
LOT	126	126
TOTAL	127	127

**SITE DATA**

LOT AREA: 1.2 ACRES  
 LOT DIMENSIONS: 120' x 100'  
 LOT COVERAGE: 1.0 ACRES  
 LOT DEPTH: 100'  
 LOT WIDTH: 120'  
 LOT AREA: 1.2 ACRES  
 LOT DIMENSIONS: 120' x 100'  
 LOT COVERAGE: 1.0 ACRES  
 LOT DEPTH: 100'  
 LOT WIDTH: 120'

**BUILDING DATA**

LOT AREA: 1.2 ACRES  
 LOT DIMENSIONS: 120' x 100'  
 LOT COVERAGE: 1.0 ACRES  
 LOT DEPTH: 100'  
 LOT WIDTH: 120'

CITY PLAN REVIEW RESPONSE - JULY 7, 2011  
 LW 11-103310 CP2C AD  
 Exhibit C.1

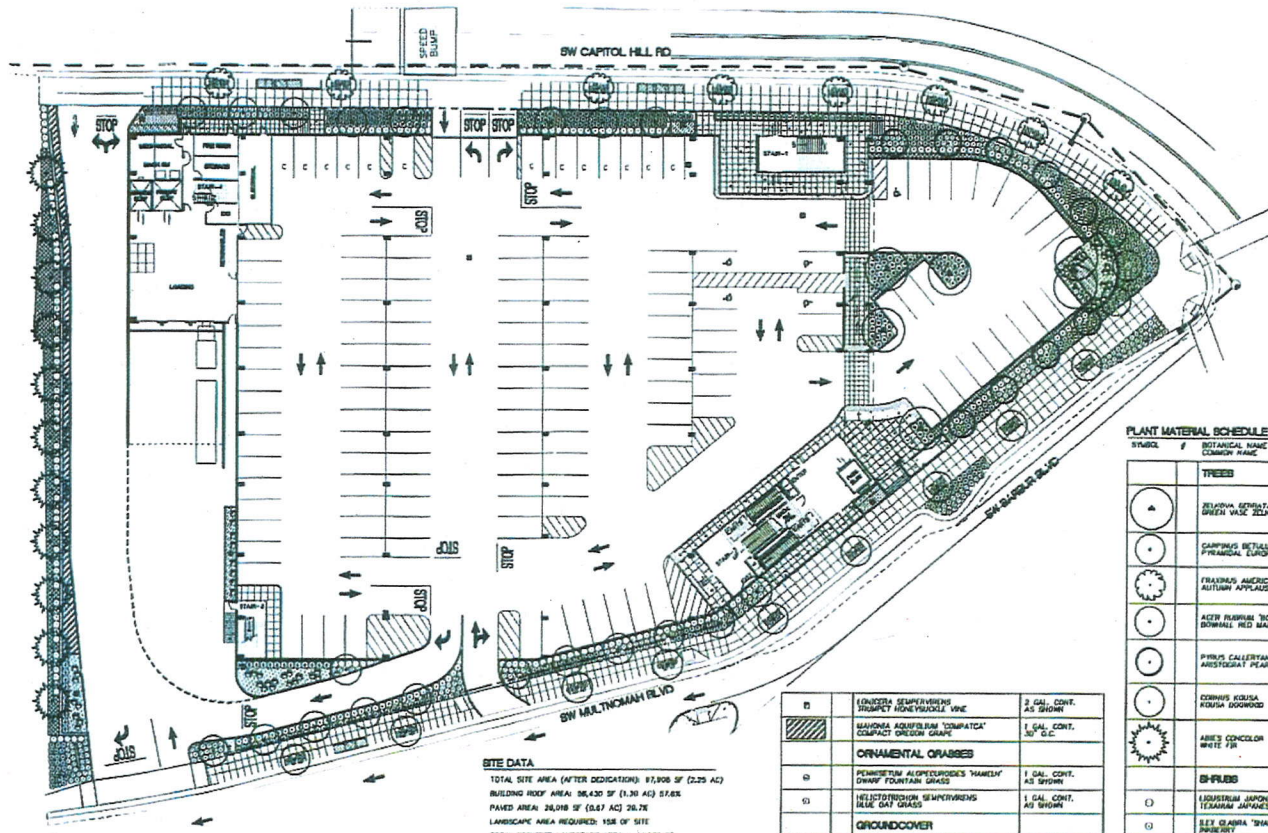
C21

**BARBUR BLVD 3136**

**SAFETYWAY STORE**  
 8145 SW BARBUR BLVD  
 PORTLAND, OR 97219



**GROUP MACKENZIE**  
 PORTLAND OFFICE: 1515 SE WATSON AVE., PORTLAND, OR 97214  
 503.224.8567



**SITE DATA**

TOTAL SITE AREA (AFTER DEDICATION) 87,908 SF (2.25 AC)  
 BUILDING FOOT AREA 38,430 SF (1.38 AC) 58.8%  
 PARKING AREA 28,018 SF (0.67 AC) 26.7%  
 LANDSCAPE AREA REQUIRED: 158 SF SITE  
 TOTAL REQUIRED LANDSCAPE AREA = 18,888 SF  
 LANDSCAPE AREA: 10,888 SF (0.24 AC) 10.8%  
 WALKWAY/PLAZA AREA: 3,471 SF (0.08 AC) 3.8%  
 (MAX. 1/3 OF REQUIRED LANDSCAPE AREA)  
 TOTAL LANDSCAPE AREA PROVIDED = 14,067 SF (14.4%)  
 PARKING LOT LANDSCAPE AREA: 1,071 SF  
 27 EXTERIOR STALLS @ 40 SF/STALL = 1,080 SF REQUIRED

**GENERAL NOTES**

1. ALL NEW LANDSCAPE AREAS TO BE IRRIGATED WITH A FULLY AUTOMATIC UNDERGROUND IRRIGATION SYSTEM.
2. PROVIDE DESIGN BUILD IRRIGATION DRAWINGS IN ACCORDANCE WITH SPECIFICATIONS.

1	LOUISIANA SEMP/VERNS	2 GAL. CONT.
2	TRUMPET HONEYBUCKLE VINE	AS SHOWN
3	MAHONIA AQUIFOLIUM 'OMPACTA'	1 GAL. CONT.
4	COMPACT CRONSON GRASS	30" D.C.
<b>ORNAMENTAL GRASSES</b>		
5	PENISTEMON ALPICOLOIDES 'HAKENI'	1 GAL. CONT.
6	DRY FOUNTAIN GRASS	AS SHOWN
7	HELIOTROPISUM SEMIPROSTRANS	1 GAL. CONT.
8	BLUE DUT GRASS	AS SHOWN
<b>GROUND COVER</b>		
9	ARCTOSTAPHYLOS UVA-URS	1 GAL. CONT.
10	SPRINGBURN	30" D.C.
<b>BIOTERMWATER</b>		
11	CORNAUS SERICA 'WELBY'	1 GAL. CONT.
12	HELIX DOGWOOD	AS SHOWN
13	SALE PAMPINIA 'NANA'	1 GAL. CONT.
14	DRY ARCTIC WILLOW	AS SHOWN
15	JANUS RATESIS	1 GAL. CONT.
16	COMMON RUSH	12" D.C.
17	CLIOGOMUS PALUSTRIUS	1 GAL. CONT.
18	CREeping SPICE BUSH	12" D.C.
19	CAREX TESTATA	1 GAL. CONT.
20	NEW ZEALAND FRANGE SEDGE	12" D.C.

PLANT MATERIAL SCHEDULE		
SYMBOL	BOTANICAL NAME - COMMON NAME	SIZE / SPECIES
<b>TREES</b>		
1	RELICIA SPINATA 'GREEN WAVE'	2" CAL. BAR
2	GREEN WAVE JELLYFISH	AS SHOWN
3	CAMPANUS RETICULUS 'PASTORAL'	3" CAL. BAR
4	PYRAMIDAL EUROPEAN HORNBEAM	30% HT. BRANCHING
5	TRILIRIA AMERICANA 'AUTUMN APPLAUSE'	3" CAL. BAR
6	AUTUMN APPLAUSE, JUNE	AS SHOWN
7	ACER RUBRUM 'NOMINAL'	2" CAL. BAR
8	NOMINAL RED MAPLE	AS SHOWN
9	PHILIS CALLERYANA 'ARISTOCRAT'	2" CAL. BAR
10	ARISTOCRAT PEAR	AS SHOWN
11	CORNAUS KURSA	2" CAL. BAR
12	KURSA DOGWOOD	AS SHOWN
13	ARIES CONCOLOR	1" HT. BAR
14	WHITE FIR	AS SHOWN
<b>SHRUBS</b>		
15	LIQUIDUMB JAPONICUM 'TEXANUM'	3 GAL. CONT.
16	TEXANUM JAPANESE PRIVET	AS SHOWN
17	SEI CLABRA 'SHARROCK'	3 GAL. CONT.
18	PRIVET	AS SHOWN
19	LIQUIDUMBAL CHENSIS 'TINY'	2 GAL. CONT.
20	RUBY CHINESE FRINGE FLOWER	AS SHOWN
21	YOUNG DAVID	2 GAL. CONT.
22	DAVID DOGWOOD	AS SHOWN
23	BEVERLY THUNDER 'SHARON PINK'	2 GAL. CONT.
24	CRIMSON PINKY BARBERRY	AS SHOWN
25	SPINOSA JAPONICA 'GOLDFLAME'	2 GAL. CONT.
26	GOLDFLAME SPURGE	AS SHOWN
27	MAHONIA DOMESTICA 'HARBOR DWARF'	2 GAL. CONT.
28	HARBOR DWARF MAHONIA	AS SHOWN
29	SEI CHENSIS 'WELBY'	2 GAL. CONT.
30	WELBY'S JAPANESE HOLLY	AS SHOWN

CITY PLAN REVIEW RESPONSE - JULY 7, 2011

**GROUP MACKENZIE**  
 1101 SE 10th Ave. Portland, OR 97214  
 503.248.8666

**BARBUR BLVD 3136**

**SAFEWAY STORE**  
 8145 SW BARBUR BLVD  
 PORTLAND, OR 97219

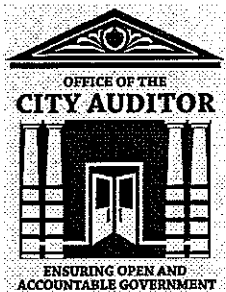
**LANDSCAPE PLAN**

**L21**

2100140.00  
 © 2011 MACKENZIE GROUP

LU 11-103310.CP 20 AD  
 Exhibit C.2





# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

1900 SW 4<sup>th</sup> Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: [www.portlandoregon.gov/auditor/hearings](http://www.portlandoregon.gov/auditor/hearings)



## RECOMMENDATION OF THE HEARINGS OFFICER

### I. GENERAL INFORMATION

**File No.:** LU 11-103310 CP ZC AD (HO 4110021)

**Applicant:** Diane Phillips, Real Estate Manager, Portland Division  
Safeway Inc.  
16300 SE Evelyn Street  
Clackamas, OR 97015-9515

**Applicant's Representative:** Mark Whitlow, Attorney  
Perkins Coie LLP  
1120 NW Couch Street, 10<sup>th</sup> Floor  
Portland, OR 97209

**Owner:** Safeway Inc.  
1371 Oakland Boulevard #200  
Walnut Creek, CA 94596

**Hearings Officer:** Kenneth D. Helm

**Bureau of Development Services (BDS) Staff Representative:** Sheila Frugoli

**Site Address:** 8039 SW CAPITOL HILL ROAD and 8145 SW BARBUR BOULEVARD

**Legal Description:** TL 4200 1.94 ACRES, SECTION 21 1S 1E; LOT 1, PARTITION PLAT 2003-21; LOT 2, PARTITION PLAT 2003-21

**Tax Account Numbers:** R991212050, R649830810, R649830820

**State ID Number:** 1S1E21CB 04200, 1S1E21CB 04301, 1S1E21CB 04302

**Quarter Section:** 3827

**Neighborhood:** Multnomah

**District Neighborhood Coalition:** Southwest Neighborhoods Inc.

**Plan District:** None

**Zoning:** R1, Multi-Dwelling Residential 1,000  
CG, General Commercial

**Land Use Review:** Type III, CP ZC AD, Comprehensive Plan Map and Zoning Map  
Amendment Review with a concurrent Adjustment Review

**BDS Staff Recommendation to the Hearings Officer:** Approval with conditions.

**Public Hearing:** The hearing was opened at 1:00 p.m. on September 7, 2011, in the 3<sup>rd</sup> floor hearing room, 1900 SW 4<sup>th</sup> Avenue, Portland, Oregon, and was closed at 2:36 p.m. The Hearings Officer discussed the requirements of ORS 197.763 and disclaimed any *ex parte* contacts or conflicts of interest. The Hearings Officer stated that for testimony to be relevant, it must be directed at the applicable approval standards set forth in the BDS Staff Report.

There was a request by the Applicant to leave the record open for fourteen days to address evidence and testimony submitted prior to and at the hearing. The Hearings Officer granted the request and left the record open for argument and evidence to be submitted by all parties until 4:30 p.m. on September 21, 2011. All parties were given until 4:30 p.m. on September 28, 2011, to provide responsive evidence and testimony only to information submitted during the first open record period. The Applicant was given until 4:30 p.m. on October 5, 2011, to submit a final comment pursuant to ORS 197.763(6)(e). The record closed on October 5, 2011.

A letter from the Multnomah Neighborhood Association, dated September 16, 2011, but marked as received by the Hearings Office on September 22, 2011, was brought to the Hearings Officer's attention as potentially being submitted after the deadline for the first open record period. After a brief review of that letter, the Hearings Officer determined that it was intended to respond to issues raised at the public hearing and was not a response to evidence or testimony submitted during the first open record period. The letter, which was numbered Exhibit H.14, was submitted after the September 21, 2011, deadline set by the Hearings Officer. Upon making this determination, the Hearings Officer instructed Hearings Office staff to seal the letter in an envelope and leave it in the case file for this application. The Hearings Officer does not accept Exhibit H.14 into the record and has not taken account of the contents of the letter in rendering the recommendation on this application.

**Testified at the Hearing:**

Sheila Frugoli, BDS Planner

Mark Whitlow, 1120 NW Couch Street, 10th Floor, Portland, OR 97209

Eric Hovee, PO Box 225, 2408 Main Street, Vancouver WA 98666

Keith Liden, 4021 SW 36th Place, Portland, OR 97221  
Roger Averbek, 4907 SW Canterbury Lane, Portland, OR 97219  
Wendy Cawley, 1120 SW 5th Avenue, Portland, OR 97201  
Bob Haley, 1120 SW 5th Avenue, Portland, OR 97201  
Chris Brehmer, 610 SW Alder Street #700, Portland, OR 97205

**Proposal:** The Applicant, Safeway Inc., is requesting a Comprehensive Plan Map Amendment and concurrent Zone Map Amendment to change the current designation and zoning on two lots that immediately abut the western property line of the existing Safeway Barbur grocery store. The Applicant requests a change in designation and corresponding zoning from Medium Density Multi-Dwelling Residential (R1) to General Commercial (CG). The northernmost lot is 10,000 square feet and is identified as Tax Lot 4301 (8039 SW Capitol Hill Road) and is currently developed with a single-dwelling residence. The abutting lot to the south is 10,266 square feet, has frontage on SW Multnomah Boulevard, and is identified as Tax Lot 4302.

The Applicant is proposing a specific development proposal concurrent with the proposed change in zoning. The Applicant wishes to expand the commercial site in order to replace the existing 21,665 square foot building with a new 62,925 square foot, two-story grocery store. The lower floor will contain the store's entrance, parking and loading area. The store will provide 135 on-site vehicle parking spaces and 30 bicycle parking spaces. The sales (display and stock area) will be located on the upper floor. The upper floor will be accessible by escalators, elevators and stairs. Sidewalk widening and other right-of-way frontage improvements are proposed. Landscaping and a tall concrete wall or fence will provide a buffer between the rear of the store and the adjacent residential development.

The Applicant is requesting an Adjustment to reduce the minimum total landscaping required on the site (Zoning Code Section 33.130.325) from 15 percent (14,686 square feet) to 14.4 percent (14,057 square feet).

#### **Relevant Approval Criteria:**

##### **Title 33, the Planning and Zoning Code:**

- 33.810.050 Comprehensive Plan Map Amendments
- 33.855.050 Zoning Map Amendments
- 33.805.040(A-F) Adjustment Approval Criteria

#### **HEARINGS OFFICER'S OVERVIEW OF ISSUES AND RELEVANT APPROVAL CRITERIA:**

At the September 7, 2011 public hearing, several neighbors testified. For the purposes of this review, the Hearings Officer considers their testimony as taking a neutral position, but asking for what amounts to additional conditions to require bike lanes on SW Capitol Hill Road and to address perceived pedestrian safety issues. Specifically, Keith Liden and Roger Averbek testified in writing and orally that they were not opposed to the proposal as it related to the Safeway store.

(Exhibits F.3, F.4 and H.12). However, they thought that the proposed Comprehensive Plan Map Amendment and concurrent Zone Map Amendment should be conditioned to require: at least one bike lane on SW Capitol Hill Road, limitations on truck delivery routes, and various pedestrian safety improvements. Similar written testimony was provided by the Southwest Neighborhoods, Inc. ("SWNI") (Exhibit H.3) and Don Baack (Exhibit H.4). While this testimony is constructive, from a legal perspective the Hearings Officer feels that it is important to note that none of that testimony sought to identify or argue reasons for denial of the application.

After reviewing the record for this application, the written comments from neighbors, and listening to testimony at the September 7, 2011 public hearing, the Hearings Officer concludes that during the creation of this proposal the neighbors, including the Multnomah Neighborhood Association and SWNI, had constructive interaction with representatives from Safeway. The Applicant has listened to the neighbors' concerns and in the majority of instances has accommodated the neighbors' suggestions. The one significant exception is with regard to the neighbors' request to provide at least one bike lane along Capitol Hill Road. On this issue, BDS staff and Portland Bureau of Transportation ("PBOT") concluded that the proposal does not trigger a requirement for providing bike lanes at this time. More importantly, BDS staff and PBOT identified legal constraints and site development limitations that demonstrate that a bike lane along the Safeway frontage on SW Capitol Hill Road is currently unwarranted. On this point, the Hearings Officer agrees with BDS staff and PBOT as explained in more detail in the findings below.

As to the balance of the proposal, the Hearings Officer finds that the Applicant has adequately shown that a Quasi-judicial Comprehensive Plan Map Amendment and Base Zone Amendment can be approved. The Applicant has also demonstrated that a proposed Adjustment to the City's landscaping requirements can equally or better meet the purpose of those requirements and can be approved.

## II. ANALYSIS

**Site and Vicinity:** The site is comprised of the three separate lots. The largest lot is 84,500 square feet and contains an approximately 20,000 square foot commercial building which houses the Barbur Boulevard Safeway store. The store is located close to the rear (west) property line. The store's loading area is located on the south side of the store, with access off SW Multnomah Boulevard, and there is a drive aisle with access off SW Multnomah Boulevard and SW Capitol Hill Road, in front of the store, that serves as the customer parking area. A laurel hedge and other landscaping currently screen a portion of the rear of the store. The other two lots are located west of the developed store. The northernmost lot (8039 SW Capitol Hill Road) is currently developed with a single-dwelling house and attached garage. The southern abutting lot, with frontage off SW Multnomah Boulevard, is undeveloped. The site consists of an open grassy area with a large cedar tree.

The Safeway site is located at the intersection of SW Barbur Boulevard, SW Multnomah Boulevard, SW Capitol Hill Road and SW 19<sup>th</sup> Avenue. Most of the area with frontage on SW Barbur Boulevard, particularly between SW Barbur Boulevard and the I-5 Interstate Freeway, is zoned

General Commercial. The uses in the immediate area include an equipment rental business located immediately north of the existing Safeway parking area, restaurants and retail shops, located on the south side of SW Barbur Boulevard, and an office to the south of the store fronting SW Multnomah Boulevard. Single-dwelling residences are located on the north side of SW Capitol Hill Road, west of the commercial sites. West of the subject site, on the south side of SW Capitol Hill Road, is a lot developed with a single-dwelling residence. Further west is the "Park Fiesta," a residential apartment complex, and a large commercial office development occupied by US West Communications. To the northwest is the West Hills Christian School, a K-8<sup>th</sup> grade private school.

**Zoning:** Most of the site is within the CG zone. The two smaller lots proposed for change to CG are currently zoned R1. The description of the existing and proposed zones is provided below.

**R1, Multi-Dwelling Residential 1,000 zone:** The R1, Medium Density Multi-Dwelling residential zone allows up to one unit per 1,000 square feet of site area and requires a minimum of one unit per 2,000 square feet. Allowed housing is characterized by one-to-four-story buildings and a higher percentage of building coverage than in the lower density multi-dwelling zones. Condominiums and apartments, duplexes, townhouses, and row houses are usually found in this zone. Generally, R1 zoning is applied near neighborhood collector and district collector streets, and local streets adjacent to commercial areas, or major streets.

**CG, General Commercial zone:** The CG zone is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer commercial areas. The zone allows a full range of retail and service businesses within a local or regional market. Development is expected to be generally auto-accommodating, except where the site is adjacent to a transit street or in a Pedestrian District. The zone's development standards promote attractive development, an open and pleasant street appearance, and compatibility with adjacent residential areas. Development is intended to be aesthetically pleasing for motorists, transit users, pedestrians, and the businesses themselves.

**Land Use History:** City records indicate there are three prior land use reviews for this site, as follows:

- In 2009, BDS approved a Zoning Map Error Correction on tax lot 4200 (State ID # 1S1E21CB 04200) to change the zoning on a portion of the lot from R1, Multi-Dwelling Residential 1,000 to CG, General Commercial (LU 09-158905 ZE).

In 2002, BDS approved a 2-lot partition of the 21,780 square foot lot in 2002 (LU 02-113481 MP). The final plat was approved in April 2003. This partition created the two lots that are currently proposed for the zone and Comprehensive Plan Map change from R1 to CG.

- In 1968 a sign variance (VZ 2-68) was approved for the Safeway store.



**Summary of Applicant's Statement:** Safeway has operated its existing grocery market at 8145 SW Barbur Boulevard on Tax Lot 4200 since 1967 ("Existing Site"). Safeway desires to replace this store with a modernized larger facility on a larger site with structured parking. Safeway purchased adjacent Tax Lots 4301 and 4302 to enlarge the existing site and is proposing to amend the Comprehensive Plan Map and Zoning Map for those two lots. Safeway has submitted an Adjustment application in conjunction with a specific development plan. The proposed development plan evidences Safeway's present intention to develop a new Safeway store on the redevelopment site. If these applications are approved, Safeway intends to demolish its existing store on Tax Lot 4200 and develop a new store on all three tax lots.

**Agency Review:** BDS staff mailed a "Request for Response" on July 19, 2011, to potentially interested bureaus. The following bureaus, as noted with exhibit numbers, have responded with written comments regarding services and/or permit requirements. The comments that relate to the approval criteria are included in the findings below.

- Bureau of Environmental Services (BES) (Exhibit E.1)
- PBOT, Development Review (Exhibit E.2)
- Water Bureau (Exhibit E.3)
- Fire Bureau (Exhibit E.4)
- Police Bureau (Exhibit E.5)
- Site Development Review Section of BDS (Exhibit E.6)
- Life Safety Review Section of BDS (Exhibit E.9)
- Bureau of Parks, Forestry Division (Exhibit E.7)
- Oregon Department of Transportation (ODOT) (Exhibit E.8)

**Neighborhood Review:** A "Notice of Proposal in Your Neighborhood" was mailed on August 15, 2011. As of the date of publishing the BDS staff report, four written responses were received from the Neighborhood Association, interested persons or notified property owners in response to the proposal. The BDS Staff Report summarized those comments as follows:

1. Don Baack, a concerned southwest resident and advocate for pedestrian facilities raised a concern that, "Capitol Hwy is not a good street for trucks, and while we have been 'fixing to fix it' there is no viable funding source in place at this time. If trucks want to enter the freeway at Capitol Hwy they will have to take both lanes southbound to do it. This puts trucks on Multnomah and Capitol Hwy that could otherwise be redirected." He suggests, "a signal at SW 25th and a left turn for the trucks to then go down 25th, jog east to 24th and use the signal at 24th and Barbur to get onto Barbur."

He notes that SW 24<sup>th</sup> and 25<sup>th</sup> Avenues are local streets, but they "could be classified in the upcoming RTP to make them arterials and improved sufficiently to accommodate trucks. This will take a large number of trucks off streets through the Multnomah Neighborhood." Further, "a signal at SW 25<sup>th</sup> will also accommodate a north/south bicycle route for bikes

seeking to go west on Barbur from Capitol Hill Road via Troy/SW 25<sup>th</sup> and will permit them to utilize the signal at 24<sup>th</sup> and Barbur as well" (Exhibit F.1).

2. Maria Cahill, a Multnomah Neighborhood resident, wrote that the "redevelopment of this site, in general, will be of great value to our community." Exhibit F.2. But she also raised concerns and offered suggestions about stormwater management, and safety of the overall project as follows:

"The City of Portland Stormwater Management Manual (SWMM) requires native plants only in stormwater facilities. I'm glad to see some trees in the facility but request that all the species chosen be natives (preferably to Western Oregon)."

"In light of the current effort of community members at Capitol Hill School and many other places to depave areas, I would like the City to be much more aggressive about allowing "wasted" pavement like this being installed in the first place. An Adjustment to reduce the minimum landscape area from 15% to 14.4%, which I do not support."

"I would like to see all infiltration facilities, not flow-through, on this project. Flow-through facilities don't reduce runoff much and the runoff flows and additional volumes (over pre-developed Lewis & Clark condition) are themselves considered a stormwater pollutant by the EPA because those flows, when outlet to a waterway will scour soil, polluting the water that we just cleaned with our water quality facility."

"Since we have clay soils not capable of infiltrating at 2 inches/hour, it appears from a preliminary look and my own experience that not enough room has been dedicated to stormwater management."

"I would like to see the stormwater facility on the east be sized based on the infiltration rate they find on site (likely more like 0.5 inch/hour) extending farther into landscape areas."

"If an ecoroof were used on the building, runoff volumes would be reduced by 40-60% annually for the roof area. If porous pavement were used in the remaining parking and pedestrian areas open to the sky, annual runoff for these areas would be reduced by about 90%. These two practices will protect water quality & community health much more so than the current proposal, which is unlikely to reduce runoff volume by much because ecoroofs and porous pavement manage rainfall before it becomes runoff. I would prefer if stormwater management on-site were managed by ecoroofs and porous pavement instead of water quality facilities."

"The additional traffic predicted by Safeway to this site will likely cause traffic to back up on SW 19<sup>th</sup> heading east, so we need some way of knowing that when heading coming around that blind corner between the Christian school and the Safeway."

"To protect everyone (drivers, pedestrians, cyclists), I would like to see Safeway find a way to prevent cars from cutting through the loading dock area. Removable bollards, even if they weren't locked, would deter people. To make sure trucks aren't stuck out on SW 19<sup>th</sup> while drivers move the bollards, the bollards could be placed at least a truck length into the driveway of SW 19<sup>th</sup>."

"I like the covered bike parking with surveillance."

3. Roger Averbeck raised transportation-related concerns about bicycle accommodation on Capitol Hill Road (CHR). Exhibit F.3. He made the following comments:

"In the current TSP, CHR is designated as a local service bikeway. In the 2030 Bike Plan, (approved by council but not yet part of the TSP) CHR is proposed to become a City Bikeway. Obviously the current classification applies to the current land use action. In the current TSP, CHR is not a city walkway."

"CHR is not being rebuilt, but may be restriped to accommodate turn lanes, so the state law that requires inclusion of bicycle facilities does not apply."

"No redevelopment is occurring on the north side of CHR, so widening of CHR (to add either turn lanes or bike lanes) into the available public ROW on the north side is not an option."

"The current width of CHR adjacent to Safeway is approx. 30 ft., and since the new store design is at 30% design, it's not possible to ask Safeway to dedicate additional ROW on their side to accommodate travel lanes or bike lanes."

"The current proposal is two 10 ft travel lanes, plus a new 10 ft center turn lane, and a new 12 ft sidewalk adjacent to Safeway."

"Whatever final allocations are, they must remain within the existing 30 ft of pavement, except for the sidewalk on private (Safeway) property."

"My concern is that if bikes are not accommodated on the roadway, they will use the new sidewalk on the south side of CHR, to access Safeway, to travel through the segment, to access the signalized crosswalk, etc. In my opinion, this

is not a good design and does not follow current best practices for a major development. Due to the limited number of safe crossings of Barbur & I-5 (i.e. Terwilliger, CHR / SW 19th, SW 26th, etc), bike use of CHR & 19th will increase in the future."

"I support accommodation for cyclists on CHR, because the segment of CHR adjacent to the new redeveloped Safeway will have additional vehicle traffic above what is there today, there will be heavy right turn movements from CHR southbound onto Barbur, and this part of CHR will function differently than the rest of CHR (a traffic calmed neighborhood collector)."

"Expanding the sidewalk to 16 ft and designating it as a multi use path may not be possible, because it would remove 4 ft from the 30 ft available for traffic lanes. (Not likely the 4 additional ft could come from reducing the store footprint)."

"A possible solution might be to reduce the sidewalk width to 7 or 8 ft, allowing creation of a 4 or 5 ft bike lane on the south side of CHR. I believe that all modes should be accommodated in a major redevelopment, so a 12 ft sidewalk, with zero for cyclists is not a good design."

"Addition of a bike box at the intersection to reduce right turn conflicts would also mean 'no right on red.' No right on red may be implemented anyway due to the conflicts with the Mult Blvd 'off ramp,' the bus pullout, and through put vehicles headed S / W on Barbur, not to mention the ped crosswalks. Obviously any bike lane on the north side would have to wait for redevelopment."

4. Keith Liden, and active member of the Portland Bicycle Advisory Committee, offered extensive policy analysis that responds to the Comprehensive Plan Map Amendment approval criterion 33.810.050.A.1. Exhibit F.4. In his letter, he states that the proposed right-of-way improvements on the adjacent roads do not adequately accommodate pedestrians and bicyclists. Specifically, he states:

"The proposed 12-foot wide sidewalk on the SW Capitol Hill Road frontage, which will follow the existing curb line with no bicycle accommodation, is inconsistent with the Portland Comprehensive Plan, Transportation System Plan (TSP), and the recently adopted Portland Bicycle Plan for 2030 for the following reasons:

**The Barbur/I-5 Barrier.** The Barbur/I-5 corridor cuts through all of SW Portland, creating a huge connectivity barrier. There are exceptionally few routes that provide a safe and convenient crossing across, over, or under these two major

roadways. The SW Capitol Hill Road and 19<sup>th</sup> Avenue intersection with SW Barbur Boulevard, provide a fully signalized intersection and bridge crossing over I-5. The next similar crossing is at SW Terwilliger, almost one mile to the northeast. SW 26<sup>th</sup> Avenue provides an undercrossing of the two roadways approximately ½-mile to the southwest. This makes the SW Capitol Hill/19<sup>th</sup> route across Barbur/I-5 a vital crossing for all modes, especially for the most vulnerable users - pedestrians and cyclists. The intersection should be improved to take advantage of this rare crossing opportunity by making improvements for cyclists as well as pedestrians.

**Plan Policy Support.** The current Portland Comprehensive Plan and TSP both contain clear policy support for providing appropriate bicycle facilities on SW Capitol Hill Road. Although it does not specifically identify SW Capitol Hill Road as a city bikeway, the TSP policies and objectives clearly allow and encourage bicycle facility improvements. The city policies and objectives recognize that the character of a neighborhood collector (the designation for SW Capitol Hill Road) may vary and that different design treatments may be necessary along the route. The current PBOT recommendation for no bicycle accommodation on SW Capitol Hill Road is simply out of step with current plans. This recommendation treats the commercial segment of the street near Safeway with greater traffic volume and vehicle speeds, the same as the lower volume and traffic calmed residential section.

**Portland Bicycle Plan for 2030.** This plan was adopted on February 11, 2010. As I understand, it is not considered "official" until its provisions are incorporated into an updated version of the TSP. The bike plan designates SW Capitol Hill Road as a city bikeway, and the value of the route crossing Barbur/I-5 is recognized. SW Portland residents and cyclists should be not penalized by an outdated TSP because the city does not have the resources (understandably given budget issues) to update it promptly.

**Saying "Multi-modal" Isn't Enough.** The term "multi-modal" is referenced constantly in the city's planning documents. A conservative estimate would be over 1,000 times. And yet, the development review process is almost solely focused on vehicle movement and accommodation. The Applicant's traffic impact analysis makes only passing mention of pedestrians and bicyclists, with no meaningful analysis of the issues and needs for these two modes in the vicinity of the Safeway redevelopment. Virtually all of the 280-page report focuses on vehicle traffic counts, needs, and solutions. How will we ever create a multi-modal transportation system if we remain fixated on the needs of motorists? Actions must align with policy, and the city must demand a more comprehensive



approach to analyze and accommodate "multi-modal" transportation needs associated with land use applications.

**Potential Bicycle Facility Options.** I believe there are multiple facility treatments, which could successfully accommodate bicyclists, pedestrians, and motorists along the Safeway frontage on SW Capitol Hill Road. Three examples include:

- 12-foot sidewalk and 5-foot bike lane, requiring additional dedication by Safeway.
- 7-foot sidewalk and 5-foot bike lane. This would provide adequate sidewalk space, and in lieu of the "furniture zone" the bike lane would provide buffering from traffic. While 12 feet would be ideal, many heavily used pedestrian districts (e.g., Multnomah Village) work well with lesser sidewalk widths.
- Redesign the 12-foot sidewalk to operate as a cycle track with 1-way (southbound) bike travel near the curb and 2-way pedestrian travel on the remainder. Conceptually, this would work like the eastbound approach to the Hawthorne Bridge. It would also require some means to allow cyclists to safely re-enter the street before reaching the intersection.

Two other important issues need to be addressed on SW Multnomah Boulevard including:

**Pedestrian Crossings.** Pedestrians traveling to and from Safeway from the south side of SW Multnomah Boulevard are required to cross this high-speed street. The crosswalk on SW Barbur Boulevard should be well-designed to be safe for pedestrians. In addition, the city and Applicant should determine how to safely accommodate pedestrian crossings of SW Multnomah Boulevard to the southwest of the store. Currently, there is no crosswalk available on this stretch of SW Multnomah Boulevard.

**Reduce the 45 mph Speed Limit.** SW Multnomah Boulevard is posted for 45 mph between SW Barbur Boulevard and Multnomah Village. Other than I-5, this is the highest legal speed in the vicinity. With the bicycle and pedestrian traffic along SW Multnomah Boulevard (some sections without sidewalks), 45 mph is totally inappropriate in an urban setting. The speed should be reduced to 35 mph and the SW Multnomah Boulevard off-ramp designed to encourage motorists to maintain a reasonable speed."

## **ZONING CODE APPROVAL CRITERIA**

### **33.810.050 Comprehensive Plan Map Approval Criteria**

**A. Quasi-Judicial.** Amendments to the Comprehensive Plan Map that are quasi-judicial will be approved if the review body finds that the applicant has shown that all of the following criteria are met:

1. The requested designation for the site has been evaluated against relevant Comprehensive Plan policies and on balance has been found to be equally or more supportive of the Comprehensive Plan as a whole than the old designation;

**Findings:** The Applicant, Safeway Inc., requests a Comprehensive Plan Map Amendment and concurrent Zone Map Amendment to change the current designation and zoning on a portion of the ownership from R1, Medium Density Multi-Dwelling Residential, to CG, General Commercial. The proposed CG zone will match the base zone of the eastern abutting lot that is also owned by Safeway. If approved, the commercially-zoned site will be enlarged by approximately 24 percent, from 84,500 square feet to 104,766 square feet.

The Hearings Officer finds that "on balance" the requested designations will be equally supportive of the Comprehensive Plan as the existing designation. The following Comprehensive Plan Goals and Policies are relevant to this proposal:

**Goal 1 Metropolitan Coordination**

*The Comprehensive Plan shall be coordinated with federal and state law and support regional goals, objectives and plans adopted by the Columbia Region Association of Governments and its successor, the Metropolitan Service District, to promote a regional planning framework.*

**Findings:** The *Urban Growth Management Functional Plan* was approved November 21, 1996 by the Metro Council and became effective February 19, 1997. The purpose of the plan is to implement the Regional Urban Growth Goals and Objectives (RUGGO), including the 2040 Growth Concept. Local jurisdictions must address the Functional Plan when Comprehensive Plan Map Amendments are proposed through the quasi-judicial or legislative processes. The *Urban Growth Management Functional Plan* is Section 3.07 of the Metro Code. The relevant titles in that section are summarized and addressed below.

BDS staff found, and the Hearings Officer agrees, that the Applicant's request to designate the two R1 lots from Medium Density Multi-Dwelling Residential to General Commercial will have little or no effect on the intent of these titles, or these titles will be met through compliance with other applicable City regulations. The project is consistent with Metro's regional planning framework and, therefore, the requested Comprehensive Plan Map Amendment and Zone Change is consistent with Goal 1, Metropolitan Coordination, of the City's Comprehensive Plan.

**Urban Growth Management Functional Plan**

***Title 1 - Requirements for Housing and Employment Accommodation***

This section of the Functional Plan facilitates efficient use of land within the Urban Growth Boundary (UGB). Each city and county has determined its capacity for providing housing and

employment which serves as their baseline and if a city or county chooses to reduce capacity in one location, it must transfer that capacity to another location. Cities and counties must report changes in capacity annually to Metro.

Comment: The proposal includes a specific development project which is the construction of a new full-service grocery store. As discussed further below, the Applicant will address the loss of 20 units of housing potential in the R1 zone by executing a covenant that protects an existing housing project that is commercially-zoned. The change of zoning for approximately 20,000 square feet will not create housing or employment capacity conflicts.

#### *Title 3 - Water Quality and Flood Management*

The goal of the Stream and Floodplain Protection Plan (Title 3) is to protect the region's health and public safety by reducing flood and landslide hazards, controlling soil erosion and reducing pollution of the region's waterways.

Comment: Compliance with this title is achieved through the implementation of the Stormwater Management Manual and other development regulations at the time of Building Permit review. BES has analyzed the Applicant's stormwater report, geotechnical report and development proposal and finds that after treatment in seven water quality planters and detention in five underground detention pipes that are sized per the Presumptive Approach, the public storm system is predicted to have adequate capacity for stormwater discharge from this site (Exhibit E.1). For this reason, the stormwater management regulations can be met.

#### *Title 6 - Centers, Corridors, Station Communities and Main Streets*

The intention of Title 6 is to enhance the Centers designated on the 2040 Growth Concept Map by encouraging development in these Centers. This title recommends planning actions such as: (1) completing an assessment, (2) developing a plan of action for public investments, and (3) developing incentives for private investment to achieve mixed-use, pedestrian-friendly, transit-supportive development that support the 2040 Growth Concept.

Comment: The subject site is located along Metro-designated Corridors - SW Barbur Boulevard and the stretch of SW Multnomah Boulevard that links SW Barbur Boulevard to Multnomah Village. Title 6 states that centers, corridors, station communities and main streets need a mix of uses, such as grocery stores and restaurants, schools, medical offices and public spaces should be vibrant and walkable. The proposal will allow the development of a new grocery store. The project includes frontage improvements with wider sidewalks and a bus pull out area and crosswalk markings. BDS staff concluded, and the Hearings Officer agrees, that the proposal is consistent with Title 6.

#### *Title 7 - Housing Choice*

The framework plan calls for establishment of voluntary affordable housing production goals to be adopted by local governments.

*Comment:* The Applicant will address the City's "no-net loss" housing policy and approval criterion 33.810.050(A)(2) by submitting a covenant that protects multi-dwelling housing that has been developed on a commercially-zoned site. The City's residential zones do not address or regulate affordability (costs/rents). The replacement of housing potential from the subject site to another property will ensure that the City maintains its overall supply of multi-dwelling housing units. The proposal is consistent with Title 7.

*Title 12- Protection of Residential Neighborhoods*

The purpose of this title is to protect the region's existing residential neighborhoods from air and water pollution, noise and crime, and to provide adequate levels of public services.

*Comment:* The proposal is subject to review and evaluation against existing and future demand on public services and whether there are adequate service levels to support the proposed re-designation and zoning pattern. To the extent that the proposal meets the criteria found at 33.855.050(B), as discussed below, the proposal is consistent with the intent of this title. Pollution and noise control is achieved via compliance with other City regulations at time of Building Permit review. BDS staff recommends, and the Hearings Officer agrees, that crime prevention and public safety measures be required at time of development, consistent with the Police Bureau recommendations in Exhibit E.5. The proposal complies with the intent of Title 12.

*Title 13- Nature in Neighborhoods*

The purposes of this program are to conserve, protect and restore a continuous ecologically viable streamside corridor system, from the streams' headwaters to their confluence with other streams and rivers and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and to control and prevent water pollution for the protection of the public health and safety and to maintain and improve water quality throughout the region.

*Comment:* The site is not located in an environmental or greenway overlay zone, nor is it within a floodplain. Water quality requirements, pursuant to the City's Stormwater Management Manual requirements, will be satisfied. The proposal complies with the intent of Title 13.

***GOAL 2: Urban Development***

*Maintain Portland's role as the major regional employment, population and cultural center through public policies that encourage expanded opportunity for housing and jobs, while retaining the character of established residential neighborhoods and business centers.*

**Findings:** The proposal will help to maintain Portland's role as a major employment and population center. By enlarging the commercial area by approximately 20,000 square feet, a full-service grocery store will be constructed to serve the adjacent residential area. Due to the location of the site, already abutting the 84,500 square foot CG-zoned site, and other commercial sites, the record demonstrates that the proposal will not significantly impact the residential area to the west and north. The proposal will enhance the commercial node at SW Capitol Hill Road and SW Barbur Boulevard by allowing an established grocery store to be replaced with a new store.

BDS staff concluded, and the Hearings Officer agrees, that the proposal is consistent with the following applicable policies of Goal 2: *Policy 2.1 Population Growth, Policy 2.2 Urban Diversity, Policy 2.9 Residential Neighborhoods, Policy 2.12 Transit Corridors, Policy 2.13 Auto-Oriented Commercial Development,, Policy 2.16 Strip Development, Policy 2.17 Transit Stations and Transit Centers, Policy 2.19 Infill and Redevelopment, Policy 2.20 Utilization of Vacant Land, Policy 2.22 Mixed Use and Policy 2.23 Buffering.*

*Policy 2.1 Population Growth*

Allow for population growth within the existing city boundary by providing land use opportunities that will accommodate the projected increase in city households by the year 2000.

Comment: The proposal is consistent with this policy because the CG zone allows residential development at a higher density as well as the full range of commercial uses such as grocery stores that serve nearby residents.

*Policy 2.2 Urban Diversity*

Promote a range of living environments and employment opportunities for Portland residents in order to attract and retain a stable and diversified population.

Comment: The proposal is supportive of this policy because it will provide a site that can accommodate a new full-service grocery store. Because the CG zone allows both residential and commercial development, the redevelopment of the Safeway store will promote a range of environments and employment opportunities for nearby residents.

*Policy, 2.9 Residential Neighborhoods*

Allow for a range of housing types to accommodate increased population growth while improving and protecting the city's residential neighborhoods.

Comment: Although the western lots are zoned R1, they are not developed with multiple dwellings. There is a single dwelling on the northern lot and the southern lot is vacant. To replace the housing potential of the R1 zone, the Applicant is proposing to execute a covenant that will protect, for the next 25 years, multi-dwelling housing constructed in a commercial zone elsewhere in the City. There are two large properties immediately west of the subject site that are also zoned R1, but currently contain nonconforming uses. If these properties were redeveloped, there is the potential for over 450 residential units. The record shows that the proposed full-service grocery store will improve services for current Southwest residents as well as future additional residents.

*Policy 2.11 Commercial Centers*

Expand the role of major established commercial centers which are well served by transit. Strengthen these centers with retail, office service and labor-intensive industrial activities which are compatible with the surrounding area. Encourage the retention of existing medium and high density apartment zoning adjacent to these centers.



Comment: Because the subject site and nearby sites are best described as a corridor rather than a major center, this policy does not apply.

*Policy 2.12 Transit Corridors*

Provide a mixture of activities along Major Transit Priority Streets, Transit Access Streets, and Main Streets to support the use of transit. Encourage development of commercial uses and allow labor-intensive industrial activities which are compatible with the surrounding area. Increase residential densities on residentially-zoned lands within one-quarter mile of existing and planned transit routes to transit-supportive levels. Require development along transit routes to relate to the transit line and pedestrians and to provide on-site pedestrian connections.

Comment: This policy is supported because the proposal will result in a new full-service grocery store. Title 6 of Metro's Urban Growth Functional Plan specifically identifies grocery stores as important uses that serve higher density corridors. The Applicant's development proposal shows an urban-style grocery store with structured parking, pedestrian connections from the adjacent streets, and transit stops to the main entrance. The proposal is consistent with this policy.

*Policy 2.13 Auto-Oriented Commercial Development*

Allow auto-oriented commercial development to locate on streets designated as Major City Traffic Streets by the Transportation Element. Also allow neighborhood level auto-oriented commercial development to locate on District Collector Streets or Neighborhood Collector Streets near neighborhood areas where allowed densities will not support development oriented to transit or pedestrians. Where neighborhood commercial uses are located on designated transit streets, support pedestrian movement and the use of transit by locating buildings and their entrances conveniently to transit users, pedestrians, and bicyclists and providing on-site pedestrian circulation to adjacent streets and development.

Comment: This policy is supported because the proposed neighborhood commercial use, a full-service grocery store, will be located on a major transit street. The specific development proposal shows the main entrance will be oriented to SW Barbur Boulevard. There will be pedestrian connections linking the public sidewalks to the main entrance and secondary entrances.

*Policy 2.16 Strip Development*

Discourage the development of new strip commercial areas and focus future activity in such areas to create a more clustered pattern of commercial development.

Comment: The requested map designation and zone change will allow for the redevelopment of a neighborhood-serving grocery store. The application includes a specific development proposal that identifies the planned improvements on the large commercially-zoned lot and the two smaller residentially-zoned lots. In order to address utility requirements, the three separate lots will be required to be combined. This condition will ensure that the smaller two commercial sites will not be developed separately and, therefore, supports this policy.

*Policy 2.17 Transit Stations and Transit Center*

Encourage transit-oriented development patterns at transit stations and at transit centers to provide for easy access to transit service. Establish minimum residential densities on residentially-zoned lands within one-half mile of transit stations and one-quarter mile of transit centers that support the use of transit. The design and mix of land uses surrounding transit stations and transit centers should emphasize a pedestrian-and bicycle-oriented environment and support transit use.

Comment: The site does not abut a designated transit station or transit center. However, the Applicant's specific development proposal is designed with a strong transit and pedestrian orientation. Most of the proposed parking will be located within the structure. The main entrance, pedestrian connections and on-site bicycle parking, which the Applicant has agreed to increase to 30 spaces, supports the intent of this policy.

*Policy 2.19 Infill and Redevelopment*

Encourage infill and redevelopment as a way to implement the Livable City growth principles and accommodate expected increases in population and employment. Encourage infill and redevelopment in the Central City, at transit stations, along Main Streets, and as neighborhood infill in existing residential, commercial and industrial areas.

Comment: This policy is supported because the request, if approved, will allow for the replacement and modernization of an established neighborhood grocery store. The grocery store will serve nearby residential areas and has the potential to encourage redevelopment of nearby properties. The proposal supports this policy.

*Policy 2.20 Utilization of Vacant Land*

Provide for full utilization of existing vacant land except in those areas designated as open space.

Comment: This proposal will enable the redevelopment of Tax Lot 4302, which has been vacant.

*Policy 2.21 Existing Housing Stock*

Provide for full utilization of larger single-family homes with conditions that preserve the character of the neighborhood and prevent speculation.

Comment: One of the two lots proposed for a change in designation and zoning contains a modest, approximately 1,100 square-foot, single-dwelling residence. Because the dwelling is located within a high-density multi-dwelling zone, the home is not listed as a significant historic resource. This policy does not apply.

*Policy 2.22 Mixed Use*

Continue a mechanism that will allow for the continuation and enhancement of areas of mixed use character where such areas act as buffers and where opportunities exist for creation of nodes or centers of mixed commercial, light industrial and apartment development.

Comment: This policy is supported because the proposal will result in an enhancement of the existing node of commercial uses at the SW Barbur Boulevard and SW Capitol Hill Road intersection.

*Policy 2.23 Buffering*

When residential zoned lands are changed to commercial, employment or industrial zones, ensure that impacts from nonresidential uses on residential areas are mitigated through the use of buffering and access limitations. Where R-zoned lands have a C, E, or I designation, and the designation includes a future Buffer overlay zone, zone changes will be granted only for the purpose of expanding the site of an abutting nonresidential use.

Comment: The requested designation and zone change are for lots that are currently zoned for residential use and that abut other lots that are residentially zoned. To provide visual buffering, the Applicant intends to construct a solid wall, at least 6-feet tall, along the western property line and to install at least a 5-foot deep landscape strip on the outer side of that wall. Further, to address public safety concerns, BDS staff recommended, and the Applicant agreed to, a condition that requires traffic calming devices to discourage cut-through traffic between SW Multnomah Boulevard and SW Capitol Hill Road. These actions will mitigate impacts to the abutting residential development. The Applicant's specific development proposal and recommended conditions will support the intent of this policy.

***GOAL 3: Neighborhoods***

*Preserve and reinforce the stability and diversity of the City's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses and insure the City's residential quality and economic vitality.*

**Findings:** BDS staff found, and the Hearings Officer agrees, that the proposal is consistent with *Policy 3.5 Neighborhood Involvement*. The proposal supports the relevant policies and objectives of the adopted Southwest Community Plan and on balance is consistent with *Policy 3.6 Neighborhood Plan*.

*Policy 3.5 Neighborhood Involvement*

Provide for the involvement of neighborhood residents and businesses in decisions affecting their neighborhood.

Comment: The record demonstrates that the Applicant has made numerous efforts to update and meet with the Multnomah Neighborhood Association prior to and after the submittal of this application to the City and prior to the staff report being prepared. The Applicant and neighborhood representatives indicate that they have discussed the proposal at numerous meetings with representatives of the Multnomah Neighborhood Association (Exhibit A.18). The record also shows that in April 2011, the Applicant made a presentation at a community meeting for the Multnomah, Hillsdale, South Burlingame and Marquam Neighborhood Associations. In addition, notice of the hearing on the proposed amendments has been sent by the City to the appropriate neighborhood associations and to property owners within 400 feet of the site. The site is posted

with information pertaining to the application and hearing schedule. The intent of this policy has been met.

*Policy 3.6 Neighborhood Plan*

Maintain and enforce neighborhood plans that are consistent with the Comprehensive Plan and that have been adopted by City Council.

Comment: The site lies within the Southwest Community Plan (SWCP) area, adopted by City Council in July 2000. This adopted plan is included under Policy 3.6. The following Community Plan policies and objectives are relevant to this proposal.

*Southwest Community Plan*

*Land Use and Urban Form Policy*

Enhance Southwest Portland's sense of place as a community and a collection of distinct neighborhoods. Accommodate Southwest Portland's share of regional growth while protecting the environment in all areas. Encourage the realization of compact, transit and pedestrian-friendly, mixed-use centers while responding to the need for a range of housing types and prices. Outside of the mixed-use areas, allow infill housing opportunities which increase neighborhood diversity, stability and home ownership while limiting redevelopment.

*D. Corridor - Objectives*

2. Emphasize a high-quality pedestrian and bicycle environment and convenient access to public transportation along corridors.
3. Encourage the development of "nodes" of employment, commercial and housing opportunities along transit corridors.
5. Provide connections between transit corridors and nearby schools and public park facilities.

*Economic Development Policy*

Maintain and build upon Southwest Portland's position to attract and support economically viable neighborhood and regional employment centers. Foster businesses and commercial developments that are compatible with the desired scale and character of each center. The most desirable businesses include those which predominantly provide family-wage jobs.

*Housing Policy*

Provide a variety of affordable housing choices adequate to meet the needs of current and future Southwest residents. Regard the existing housing stock as one resource to meet

this need. Encourage development of housing types that will increase home ownership opportunities for Southwest residents.

*Affordability and Home Ownership Objectives*

7. Increase the supply of affordable rental housing of all types for families. This includes units with three or more bedrooms.
8. Increase Southwest Portland's supply of housing affordable to households below the median income.
9. Encourage the provision of an adequate supply of mixed-income housing so that those working in Southwest can live near where they work.

*Public Safety Objective*

8. Promote development patterns that promote pedestrian safety in commercial areas.

*Transportation Policy*

Provide a balanced, multi-modal transportation system in Southwest Portland that encourages increases in transit use and pedestrian accessibility and connectivity, discourages non-local traffic in residential areas, manages congestion, and focuses on improving and maintaining arterial and local streets.

*Transportation Objectives*

1. Support the development of pedestrian facilities, including safe crosswalks, identified in the Pedestrian Master Plan and the SW Trails maps on arterials and local streets, at major intersections and bus stops, on unimproved rights-of-way, and across public and private lands where appropriate to provide connections between residential areas and activity centers.
11. Evaluate the transportation impacts on neighborhoods and arterials when changing the development potential of an area.
12. Analyze potential transportation impacts and require appropriate mitigation measures for new development consistent with review processes and provisions of the City Code.
18. Take into consideration the existing condition of streets in the vicinity of a site, as well as their planned function, when considering quasi-judicial land use changes that rely on adequacy of services as an approval criterion.

*Comment:* Approving the proposal will result in the possibility of 20 additional units of housing to be lost for the Multnomah neighborhood. BDS staff found that this proposal does not support some of the community's housing policies. However, staff also found that this request will allow for the replacement of an outdated, small grocery store with a modernized, full-service supermarket to



serve the surrounding residential areas. The parties that participated in the hearing did not submit evidence that contradicted BDS staff's analysis as to these SWCP policies. The record demonstrates that on balance the proposal meets the plan's corridors, housing, and housing affordability policies.

At the hearing on September 7, 2011, the Applicant submitted Exhibit H.8 which is an economic impact analysis which was intended in part to respond to the Economic Development Policy in the SWCP. The analysis generally concludes that replacing the Safeway store will bring economic benefits to the neighborhood, including the strong potential for the new store to encourage new residential development and housing diversity. The Applicant argues, and the Hearings Officer agrees, that the record does not contain evidence that contradicts the economic analysis provided in Exhibit H.8. See Exhibit H.13. The Hearings Officer finds that the record shows that on balance the proposal supports the relevant SWCP policies.

To address the public safety element of the SWCP, BDS staff recommended a condition that requires surveillance cameras be installed at the rear of the store and to install speed bumps and/or other traffic calming measures in the western on-site loading area to limit both vehicle speed and to discourage cut-through traffic. The Applicant has agreed to this condition.

Keith Liden argued in both written and oral testimony that a designated bicycle lane on SW Capitol Hill Road should be required (Exhibit F.4). He also argued that speed limits should be reduced on SW Multnomah Boulevard and a pedestrian crossing should be provided to meet SWCP policies. The findings for Goal 6, below, address these and other transportation-related issues and are incorporated here by this reference. As to reducing the speed limits on the SW Multnomah Boulevard slip lane and the I-5 Multnomah Boulevard off-ramp, the record shows that while Safeway was not opposed to measures to encourage reduced speeds on those facilities, speed limits are set by PBOT and ODOT and are outside the scope of the Applicant's ability to change. The Hearings Officer agrees.

BDS staff found, and the Hearings Officer agrees, that on balance, the proposal is supportive of the SWCP policies and objectives.

#### **GOAL 4: Housing**

*Enhance Portland's vitality as a community at the center of the region's housing market by providing housing of different types, tenures, density, sizes, costs, and locations that accommodate the needs, preferences, and financial capabilities of current and future households.*

**Findings:** BDS staff concluded, and the Hearings Officer agrees, that on balance the proposal is consistent with the applicable Goal 4 policies which are: *Policy 4.1 Housing Availability, Policy 4.2 Maintain Housing Potential, Policy 4.5 Housing Conservation, and Policy 4.11 Housing Affordability.* The proposal does not support *Policy 4.7 Balanced Communities, Policy 4.10 Housing Diversity, and Policy 4.14 Neighborhood Stability.*

*Policy 4.1 Housing Availability*

Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of Portland's households now and in the future.

Comment: The proposal is consistent with this policy because the Applicant intends to execute a covenant that protects existing housing that is located within a commercial zone elsewhere in the City. The covenant will serve to address the City's housing target by protecting housing that could be replaced by other uses. On balance, the proposal is consistent with this policy.

*Policy 4.2 Maintain Housing Potential*

Retain housing potential by requiring no net loss of land reserved for, or committed to, residential, or mixed-use. When considering requests for amendments to the *Comprehensive Plan* map, require that any loss of potential housing units be replaced.

*Objective A.*

Allow the replacement of housing potential to be accomplished by such means as: 1) rezoning (and redesignating) existing commercial, employment, or industrial land to residential; 2) rezoning (and redesignating) lower density residential land to higher density residential land; and 3) rezoning to the CM zone; or 4) building residential units on the site or in a commercial or employment zone if there is a long term guarantee that housing will remain on the site.

Comment: The proposal is consistent with this policy and objective by providing a "no-net loss" of residential housing opportunities. The long-term guarantee represented by the covenant discussed above will protect 20 residential units in a commercial zone. The proposal is consistent with this policy.

*Policy 4.5 Housing Conservation*

Restore, rehabilitate, and conserve existing sound housing as one method of maintaining housing as a physical asset that contributes to an area's desired character.

Comment: As explained in the findings for Policy 2.21 Existing Housing Stock, one of the two lots proposed for a change in designation and zoning contains an approximately 1,100 square-foot, single-dwelling residence. Because the dwelling is located within a multi-dwelling zone, the zoning encourages replacement of this dwelling. Because of the modest size of the home on a large lot and its location near a commercial node, and the current zoning, BDS staff concluded that conserving the home is not the best method of achieving Policy 4.5. On balance, and considering the covenant the Applicant will execute with respect to residential housing, the proposal supports this policy.

*Policy 4.7 Balanced Communities*

Strive for livable mixed-income neighborhoods throughout Portland that collectively reflect the diversity of housing types, tenures (rental and ownership) and income levels of the region.

**Policy 4.10 *Housing Diversity***

Promote creation of a range of housing types, prices, and rents to 1) create culturally and economically diverse neighborhoods; and 2) allow those whose housing needs change to find housing that meets their needs within their existing community.

**Policy 4.11 *Housing Affordability***

Promote the development and preservation of quality housing that is affordable across the full spectrum of household incomes.

**Comment:** Because the housing potential for the site will be met at a site located outside of Southwest Portland, the proposal will not directly address the housing diversity needs of the Multnomah neighborhood or other southwest neighborhoods. However, BDS staff submitted a memorandum to the record dated September 13, 2011, which reviewed the Applicant's economic analysis in Exhibit H.8 in relation to policies 4.7, 4.10 and 4.11. Based in part on the economic analysis, BDS staff concluded that modernizing the Safeway store, despite the loss of the two residentially zoned lots, will encourage upgrading of existing housing and development of new housing within walking distance of the store. See Exhibit H.11. The record supports this conclusion, and no other evidence in the record contradicts the findings of the Applicant's economic analysis. As to Policy 4.11, the proposal is consistent with this policy by providing a "no-net loss" of residential development opportunity in the City. The covenant discussed above will protect 20 residential units that are developed in a commercial zone. The Hearings Officer concurs with BDS staff's finding that on balance the proposal meets these policies.

**Policy 4.14 *Neighborhood Stability***

Stabilize neighborhoods by promoting: 1) a variety of homeownership and rental housing options; 2) security of housing tenure; and 3) opportunities for community interaction.

**Comment:** As noted under Policy 4.10, because the housing potential for the site will be met at a site located outside of Southwest Portland, the proposal will not directly address the housing needs, particularly rental housing options, for the Multnomah neighborhood or other southwest neighborhoods. However, for the same reasons discussed in the findings for policies 4.7, 4.10 and 4.11, the economic boost that a new Safeway store is anticipated to provide to the area is likely to contribute positively to neighborhood stability. The Hearings Officer finds that on balance the proposal supports Policy 4.14.

**GOAL 5: *Economic Development***

*Foster a strong and diverse economy which provides a full range of employment and economic choices for individuals and families in all parts of the city.*

**Findings:** BDS found, and the Hearings Officer concurs, that the proposal is consistent with *Policy 5.1 Urban Development and Revitalization, Policy 5.2 Business Development, Policy 5.4 Transportation System, Policy 5.6 Area Character and Identity within Designated Commercial Areas, and Policy 5.7 Business Environment within Designated Commercial Areas.*

*Policy 5.1 Urban Development and Revitalization*

Encourage investment in the development, redevelopment, rehabilitation and adaptive reuse of urban land and buildings for employment and housing opportunities.

*Policy 5.2 Business Development*

Sustain and support business development activities to retain, expand and recruit businesses.

Comment: BDS staff found, and the Hearings Officer agrees, that the proposal supports this policy because it facilitates the modernization and expansion of a grocery store that has served the neighborhood since 1967. The record amply supports the finding that the proposed new grocery store will serve the surrounding residential neighborhoods and will bring enhanced vitality to this commercial node, creating additional employment opportunities. The Bureau of Planning and Sustainability prepared a "Food Systems Background Report" for the Portland Plan, December 2010. The report states:

*Economic Benefits*

*Full-service grocery stores can raise the economic value of surrounding properties; they provide both entry-level and higher jobs in a community. They draw customers to the commercial district and can boost traffic to neighboring shops or catalyze development of new commercial stores. By increasing traffic, they can increase security of an area with more eyes on the street and can bring the impression that the community is an attractive place to live and work.*

BDS staff found, and the Hearings Officer concurs, that the proposal supports Policies 5.1 and 5.2.

*Policy 5.4 Transportation System*

Promote a multi-modal regional transportation system that encourages economic development.

Objectives:

- D. Support transit-supportive development and redevelopment along designated transit streets and in the vicinity of transit stations.
- E. Promote safe and pleasant bicycle and pedestrian access to and circulation within commercial areas. Provide convenient, secure bicycle parking for employees and shoppers.
- F. Encourage a wide range of goods and services in each commercial area in order to promote air quality and energy conservation.

Comment: The site has frontage on SW Barbur Boulevard which is a designated Major Transit Street. The project is configured to be attractive and inviting to pedestrians and to be supportive of available transit services. The project will include 30 secure bicycle parking spaces, which exceeds the development standards. Access to a full-service grocery store, with frequent transit service, will

serve to reduce energy consumption for southwest Portland residents. The proposal supports this policy.

*Policy 5.6 Area Character and Identity within Designated Commercial Areas*

Promote and enhance the special character and identity of Portland's designated commercial areas.

Comment: BDS staff found that the Safeway store has defined the identity of the commercial node at the SW Barbur Boulevard and SW Capitol Hill Road intersection since 1967. The Applicant proposes a modernized, larger building with a stronger presence along the site's street frontages. There will be extensive landscaping at the front of the eastern tip of the site. The proposal is consistent with this policy.

*5.7 Business Environment within Designated Commercial Areas*

Promote a business environment within designated commercial areas that is conducive to the formation, retention and expansion of commercial businesses.

*Objective C.*

Sustain the role of designated commercial areas in providing shopping and employment opportunities for city residents.

Comment: If approved, the proposal will enable the Applicant to replace a relatively small grocery store with a full-service, modernized facility. The plan designation and zone change will allow for the retention and expansion of this locally-oriented retail business. The proposal is consistent with this policy.

**GOAL 6: Transportation**

*Develop a balanced, equitable, and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility.*

**Findings:** Comprehensive Plan Map Amendments must be reviewed against relevant Transportation Policies in the Comprehensive Plan. 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. BDS staff and PBOT concluded that on balance, the proposal is equally or more supportive of the relevant policies of Goal 6. As explained in more detail below, the Hearings Officer agrees.

*Policy 6.1 Coordination*

Coordinate with affected state and federal agencies, local governments, special districts, and providers of transportation services when planning for and funding transportation facilities and services.

*Policy 6.2 Public Involvement*

Carry out a public involvement process that provides information about transportation issues, projects, and processes to citizens, businesses and other stakeholders, especially to those traditionally underserved by transportation services, and that solicits and considers feedback when making decisions out transportation.

Comment: Policies 6.1 and 6.2 are met by the land use review notice requirements which include sending a notice of the proposed amendment to state and local agencies, and to property owners within a radius of 400 feet of the amendment site.

*Policies 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, and 6.11 Classification Descriptions*

Policy 6.4 states that the Street classification descriptions and designations describe the types of motor vehicle, transit, bicycle, pedestrian, truck and emergency vehicle movement that should be emphasized on each street. Policies 6.5 through 6.11 detail the intended character and use of streets for each transportation mode.

Comment: The redevelopment site fronts on SW Barbur Boulevard, SW Multnomah Boulevard, and SW Capitol Hill Road. In part to address the above policies, the Applicant provided a Transportation Planning Rule ("TPR") analysis. The study was prepared to address transportation impacts associated with the proposed Comprehensive Plan Amendment and Zoning Map Amendment. The TPR analysis compares the reasonable worst-case scenario for the existing Multi-Dwelling plan designation and R1 zoning designation of the 0.47-acre amendment site, with the reasonable worst case scenario for the proposed General Commercial plan and zoning designations. The results of the TPR analysis indicate that the potential worst-case scenario increase in net new weekday p.m. peak hour trips in the area will be approximately 125.

The TPR analysis forecast the SW Barbur Boulevard/SW Capitol Hill Road intersection to operate over capacity during the horizon year 2035 weekday p.m. peak hour with site development under both the existing and proposed worst-case zoning scenarios. Further, intersection conditions were forecast to worsen under the proposed General Commercial plan and zoning scenario, increasing the intersection volume-to-capacity ratio from 1.09 to 1.16. The degradation in volume-to-capacity ratio and increase in delay represent a significant affect for TPR purposes.

In response to the TPR study, the Applicant proposed that a "trip cap" be imposed on the 0.47-acre site to comply with the TPR and related policies of the Oregon Highway Plan ("OHP") associated with the proposed rezone. BDS staff recommended that the trip cap be imposed as a condition. The trip cap would be established to limit the future trip generation potential of the 0.47-acre site to the maximum reasonable worst-case scenario that exists under the current R1 designation (10 net new weekday p.m. peak hour trips). The trip cap would ensure that no additional trips are generated to or from the site as a result of future redevelopment under the proposed rezone.

A trip cap was also identified for the overall redevelopment site. The TPR analysis demonstrated that the combined reasonable worst-case site trip generation potential for the 2.41-acre redevelopment site results in a total of 450 (232 in, 218 out) net new weekday p.m. peak hour trips.

The record shows that application of a 450 weekday p.m. peak hour trip cap to the redevelopment site will limit, as calculated by floor area, the future trip generation potential of the contiguous 2.41-acre site to the maximum reasonable worst-case scenario and ensure compliance with the TPR and related policies of the OHP.

The Hearings Officer agrees that with the trip cap in place, the proposal will not change the maximum trip generation potential of the redevelopment site. The record demonstrates that traffic modes and volumes are expected to remain consistent with the street classifications identified in the Transportation System Plan. Therefore, the proposal supports all of the policies identified above.

*Policy 6.12 Regional and City Travel Patterns*

Support the use of the street system consistent with its state, regional, and city classifications and its classification descriptions.

Comment: The Hearings Officer agrees with BDS staff's conclusion that changing the zoning of the two R1 zoned lots to match the commercial zoning on the existing site will create a commercially viable redevelopment site which will consolidate and modernize access for the new commercial node consistent with this policy. The record shows that the proposal will reduce the number of driveways on the three existing lots from seven to four. This outcome is expected to improve the function of roads that abut the redevelopment site. For these reasons, the proposal supports Policy 6.12.

*Policy 6.13 Traffic Calming*

Manage traffic on Neighborhood Collectors and Local Service Traffic Streets, along main streets, and in centers consistent with their street classifications, classification descriptions, and desired land uses.

Comment: As noted in the discussion of the policies related to Classification Descriptions (policies 6.4-6.11), the level of development potential is not expected to increase traffic impacts on Local Service streets to unacceptable levels. The record shows that SW Capitol Hill Road currently has speed bumps installed for traffic calming. BDS staff recommended, and the Applicant agreed to, a condition to discourage cut-through traffic and reduce vehicle speeds through the site. The findings for Policy 6.23 also demonstrate how the traffic calming can be achieved without requiring new bike lanes on SW Capitol Hill Road, and those findings are incorporated here by reference. The Hearings Officer concurs with BDS staff's conclusion that with traffic calming measures in SW Capitol Hill Road and on-site, the proposal will support this policy.

*Policy 6.16 Access Management*

Promote an efficient and safe street system, and provide adequate accessibility to planned land uses.

Comment: The record shows that the proposal will facilitate a newer, larger development where pedestrian, bicycle, and vehicular access will be coordinated and improved from existing conditions. The proposal supports this policy.



*Policy 6.17 Coordinate Land Use and Transportation*

Implement the Comprehensive Plan Map and the 2040 Growth Concept through long-range transportation and land use planning and the development of efficient and effective transportation projects and programs.

Comment: The Hearings Officer agrees with BDS staff that this policy is met through the requirements of the quasi-judicial process for notification of the land use proposal and the requirement for analysis of the proposal in respect to the relevant policies and objectives of the Comprehensive Plan.

*Policy 6.18 Adequacy of Transportation Facilities*

Ensure that amendments to the Comprehensive Plan (including goal exceptions and map Amendments), zone changes, conditional uses, master plans, impact mitigation plans, and land use regulations that change allowed land uses are consistent with the identified function and capacity of and adopted performance measures for, affected transportation facilities.

Comment: This policy reflects a requirement in the TPR to ensure that certain land use changes will not have an unacceptable impact on transportation facilities. Title 33, Planning and Zoning, contains approval criteria language that implements this policy.

The Applicant has provided a TPR analysis prepared by Kittelson & Associates. The TPR analysis explains how the impacts, if any, of the proposed change in the Comprehensive Plan Map and Zoning Map designations of the amendment site from residential to commercial would affect the related transportation system. PBOT reviewed the Applicant's TPR analysis and provided comment and findings that are discussed fully in the findings for Title 33.855.050(B) below. The Hearings Officer considers those findings equally relevant to Policy 6.18, and incorporates those findings here by this reference.

Although the Applicant's TPR analysis forecasts that the proposal will have a significant impact on the SW Barbur Boulevard/SW Capitol Hill Road intersection, the trip cap identified in the findings for policies 6.4 – 6.11 above will allow these impacts to be effectively mitigated. With the trip cap in place, the proposed rezone will not change the maximum trip generation potential of the redevelopment site. As such, BDS staff found, and the Hearings Officer agrees, that the land use changes will not have an unacceptable impact on transportation facilities. This policy is satisfied.

*Policy 6.19 Transit Oriented Development*

Reinforce the link between transit and land use by encouraging transit-oriented development and supporting increased residential and employment densities along transit streets, at existing and planned light rail transit stations, and at other major activity centers.

Comment: TriMet serves the existing site on SW Barbur Boulevard with a "frequent service" route with service every 15 minutes or less throughout the day. The record contains evidence of preliminary discussions with PBOT and TriMet staff which show that the existing TriMet bus shelter located on the SW Barbur Boulevard site frontage is expected to be relocated and replaced

with a new bus pullout and shelter on SW Barbur Boulevard at the eastern corner of the redevelopment site in conjunction with site development. The proposed, reconfigured and enhanced bus area is anticipated to improve bus operations and safety while also reducing the potential for pedestrians to cross SW Barbur Boulevard mid-block to reach the bus stop. Further, the proposed building lobby, escalators, and overall orientation are situated to promote convenient accessibility from SW Barbur Boulevard and the relocated transit stop. The proposal supports this policy.

*Policy 6.20 Connectivity*

Support development of an interconnected, multi-modal transportation system to serve mixed-use areas, residential neighborhoods, and other activity centers.

Comment: BDS staff found that the proposal will create a more viable redevelopment site and will improve the surrounding transportation system. The proposal will result in new wider sidewalks for the full length of the redevelopment site along both SW Barbur Boulevard and SW Capitol Hill Road. The proposal will allow for connection of the existing bicycle lane on SW Multnomah Boulevard to SW Barbur Boulevard and the necessary width for a bicycle facility along the SW Barbur Boulevard site frontage. These new pedestrian and bicycle facilities will be directly linked with the reconstructed TriMet bus stop and shelter located along the SW Barbur Boulevard site frontage. A completely new internal pedestrian corridor will link SW Barbur Boulevard and SW Capitol Hill Road along the east side of the new Safeway building. Thirty new bicycle racks will be provided which exceeds zoning code requirements. The new pedestrian, bicycle, and transit facilities will better link with, and serve, the surrounding land uses and residential neighborhoods. No new public vehicular roadway facilities are proposed through the site; avoiding the potential for increasing cut-through traffic along SW Capitol Hill Road north of the redevelopment site. While a private driveway is proposed on the west side of the new building to facilitate store deliveries, speed bumps and/or other traffic calming measures will be provided along the on-site roadway to limit both vehicular speeds and cut-through traffic. The Hearings Officer finds that the record supports BDS staff's conclusions that Policy 6.20 it met.

*Policy 6.21 Right-of-Way Opportunities*

Preserve existing rights-of-way unless there is no existing or future need for them, established street patterns will not be significantly interrupted, and the functional purpose of nearby streets will be maintained.

Comment: The Applicant is preserving existing right-of-way and anticipates dedication of additional right-of-way as needed to accommodate standard half-street improvements and dedications required by the City of Portland and ODOT. No established street patterns will be significantly interrupted and the functional purpose of nearby streets will be maintained. The proposal supports this policy.

*Policy 6.22 Pedestrian Transportation*

Plan and complete a pedestrian network that increases the opportunities for walking to shopping and services, schools and parks, employment and transit.

*Comment:* The Applicant proposes the addition of new sidewalks along the entire frontage of the redevelopment site and internally along the east side of the new building, together with improved pedestrian crossings at proximate intersections. Further, the pedestrian ramps and corner of the SW Capitol Hill Road/SW Barbur Boulevard intersection nearest the site will be reconstructed to shorten the pedestrian crossing of SW Barbur Boulevard. BDS staff recommended, and the Hearings Officer concurs, that a condition requiring the frontage improvements be addressed at time of building permit review will further promote Policy 6.22. The Hearings Officer agrees with BDS staff that the proposal supports this policy.

The record shows that after the September 7, 2011 public hearing, the Applicant and members of SWNI discussed the possibility of the Applicant providing crosswalk markings at the reconstructed SW Multnomah Boulevard pedestrian crossing (Exhibit H.13). PBOT apparently agreed with this concept, and the Applicant promised to install the crosswalk in accordance with PBOT's direction. Subsequently, the Applicant learned that ODOT has jurisdiction over the crosswalk at this location and may not allow the requested crosswalk. Recommended Condition of Approval H requires the Applicant to complete the crosswalk improvement so long as approval is obtained from agencies with jurisdiction over the roadway and crosswalk.

*Policy 6.23 Bicycle Transportation*

Make the bicycle an integral part of daily life in Portland, particularly for trips of less than five miles, by implementing a bikeway network, providing end-of-trip facilities, improving bicycle/transit integration, encouraging bicycle use, and making bicycling safer.

*Comment:* The Applicant proposes pavement widening for the creation of a continuous southbound bicycle facility along the SW Barbur Boulevard frontage of the proposed redevelopment site. The proposed frontage improvements on SW Barbur Boulevard will provide a dedicated TriMet bus pullout, widening for a bicycle facility, and new pedestrian facilities. These new amenities exceed the improvements envisioned in the City's previously adopted SW Barbur Boulevard Streetscape Plan for the site frontage. Further, on-site bicycle racks will be provided in excess of the City's minimum requirements.

One of the main concerns raised by interested citizens was a desire for separate bike lanes on SW Capitol Hill Road along the Safeway frontage. Exhibits F.3 and F.4 The BDS staff report responded to these comments as follows:

"Based on the existing classification as a Local City Bikeway, current policy makes it very difficult to require the additional dedication needed for provision of a bike lane. Widening the existing 30-foot roadway to accommodate a 5 to 6-foot bike lane would also trigger public stormwater facilities behind the new curb line meaning a minimum of an additional 9 to 10-foot dedication would be needed. The Portland Bicycle Plan for 2030 identifies this section of SW Capitol Hill Road as a future enhanced shared roadway. The bike projects recommended on Capitol Hill Road from the 2030 Plan (see

Appendix A, page A-16.) identifies the enhanced shared roadway facility.

*8021 CAPITOL HILL RD from SW Barbur Blvd to SW Bertha Blvd*  
*Multiple facility types: bicycle boulevard or enhanced shared roadway*  
*(Barbur - Troy; 21st - Custer); bicycle boulevard or advisory bike lane*  
*(Troy - 21st); enhanced shared roadway (Custer - Bertha)*  
*\$164,000*

The Safeway frontage is identified as bike boulevard/enhanced shared roadway and this section of Capitol Hill Road was recently "enhanced" with speed bumps to slow traffic (there is a bump very close to the proposed Safeway driveway). While PBOT understands the desire to provide space for bicyclists, it would be difficult to require this of Safeway given the designation in the 2030 plan and lack of designation in the current TSP."

The Hearings Officer agrees with BDS staff's conclusions. In addition, the Hearings Officer has reviewed Keith Liden's submissions in Exhibits F.4 and H.12 and his comments at the September 7, 2011 public hearing advocating for bike lanes on SW Capitol Hill Road. His comments provide an overview of most, if not all, of the relevant Goal 6 policies, Transportation System Plan policies and Portland Bicycle Plan for 2030 policies as they might relate to the Applicant's proposal. For the sake of clarity, the Hearings Officer finds it is useful to list all of the policies that Mr. Liden notes in his submissions:

- Goal 6, Policy 6.5
- Goal 6, Policy 6.7
- Goal 6, Policy 6.13
- Goal 6, Policy 6.18
- Goal 6, Policy 6.20
- Goal 6, Policy 6.23
- Transportation System Plan Policies 6.7 and Table 5.9
- Goal 11B
- Southwest Community Plan
- Portland Bicycle Plan for 2030, Sections 3.2.6 and 3.2.8

While the Hearings Officer believes that Mr. Liden describes and understands the intent of these policies as they relate to bicycle facilities in the City, his assertion that individually, or as a whole, these policies mandate the creation of bike lanes on SW Capitol Hill Road is not correct. The Hearings Officer has reviewed all of the cited policies and finds that they represent aspirational objectives intended primarily to guide the creation of other planning documents. Nothing in the identified policies requires, in any absolute way, that bike lanes be provided along the section of SW

Capitol Hill Road adjacent to the Safeway store. Even the most directive policy identified by Mr. Liden, Table 5.9 Guidelines for Selecting Bikeway Facilities, stops short of requiring bike lanes for local collectors like SW Capitol Hill Road. Bike lanes are "recommended" by that policy, not required. On this issue the Hearings Officer agrees with the conclusion reached by the Applicant's traffic consultant in Exhibit H.13a, that neither the City's TSP, nor the Portland Bicycle Plan for 2030, mandate the provision of separate bicycle lanes along SW Capitol Hill Road.

Mr. Liden also requests that the Hearings Officer impose a condition, based in part on his interpretation of the above policies, to require PBOT and Safeway to meet with neighborhood representatives to identify bicycle and pedestrian improvements for SW Capitol Hill Road (Exhibit H.12). Because there are no mandatory approval criterion with respect to bike lanes on SW Capitol Hill Road, such a condition cannot be imposed unless agreed to by the Applicant. Here, the Applicant clearly does not agree to such a condition and throughout the written testimony argues that the 30-foot wide paved section of SW Capitol Hill Road in question cannot support three travel lanes and bicycle lanes. See Exhibit H.16. For these reasons, the Hearings Officer declines to impose the requested condition.

One additional matter warrants attention with respect to bike lanes on SW Capitol Hill Road. Both PBOT and Safeway have suggested that requiring Safeway to dedicate land along its frontage on SW Capitol Hill Road might constitute an improper "taking" of property under the Oregon and Federal constitutions. They are concerned that in addition to the required dedications of land along the other frontages of Safeway's property, the additional dedication for bike lanes along SW Capitol Hill Road would not be "proportional" to the identified impacts, and therefore, could not be legally justified. Mr. Liden appears to disagree with this position (Exhibit H.12). However, he does not explain why the subject dedication might be proportional or how it could be justified under the relevant line of U.S. Supreme Court and Oregon court decisions following *Dolan v. City of Tigard*, 512 US 374 (1994). As a result, even if there were impacts along SW Capitol Hill Road that might trigger the desired bike lanes, no substantial evidence or argument exists in the record upon which the Hearings Officer could make a determination on rough proportionality.

In conclusion, the Hearings Officer agrees with the analysis and conclusions in the BDS Staff Report and the September 7, PBOT memorandum (Exhibit H.12).

*Policy 6.24 Public Transportation*

Develop a public transportation system that conveniently serves City residents and workers 24 hours a day, seven days a week and can become the preferred form of travel to major destinations, including the Central City, regional and town centers, main streets and station communities.

*Comment:* The application proposes a reconfigured and improved bus stop and bus pullout along the SW Barbur Boulevard frontage of the proposed redevelopment site. The Hearings Officer finds that on balance, this policy is satisfied.

*Policy 6.25 On-Street Parking Management*

Manage the parking supply to achieve transportation policy objectives for neighborhood and business district vitality, auto trip reduction, and improved air quality.

Comment: The application proposes to increase the size of the existing commercial node, with associated upgrades in site access and related minor transportation improvements, as discussed above. Making the redevelopment site commercially viable by increasing its size will facilitate enhanced mass transit facilities and accessibility, thereby reducing demand on non-transit modes of transportation, thereby decreasing the demand for parking. This policy is met.

*Policy 6.26 On-street Parking Management*

Manage the supply, operations, and Demand for parking and loading in the public right-of-way to encourage economic vitality, safety for all modes, and livability of residential neighborhoods.

Comment: The application proposes to increase the size of an existing commercial node to increase its size to allow sufficient site area to develop modern commercial facilities, with adequate on-site parking and loading. The proposal satisfies this policy.

*Policy 6.27 Off Street Parking*

Regulate off-street parking to promote good urban form and the vitality of commercial and employment areas.

Comment: The proposed development site will accommodate all parking on-site. No on-street parking is currently available along the site frontages and none is proposed. The proposal supports this policy.

*Policy 6.28 Travel Management*

Reduce congestion, improve air quality, and mitigate the impact of development-generated traffic by supporting transportation choices through demand management programs and measure and through education and public information strategies.

Comment: BDS staff found that the application proposes to enhance multimodal transportation facilities on and around the redevelopment site, through the construction of new sidewalks, bike lanes and transit stops and a new bus pullout. Some neighbors disagreed that the proposal supports multimodal transportation options, primarily because BDS staff did not recommend bike lanes for SW Capitol Hill Road. The Hearings Officer has reviewed these arguments and disagrees. The proposed building orientation, extra bicycle racks, pedestrian amenities, as well as improved transit stops, will likely encourage walking and bicycle based trips. The record shows that no aggressive travel demand management measures should be needed for this site since it is located on a high frequency transit line, and parking impacts are expected. For these reasons, the Hearings Officer concurs with BDS staff that the proposal supports this policy.

*Policy 6.30 Truck Mobility*

Develop, manage, and maintain a safe, sufficient, and Reliable freight street network to serve Freight Districts, commercial areas, and neighborhoods.

Comment: This site is not located within a Freight District. However, SWNI and other neighbors raised concerns both in writing and at the hearing about potential adverse impacts from delivery trucks using neighborhood streets. To address these concerns, the Applicant provided a truck route analysis for the dedicated Safeway trucks which will make deliveries to the site (Exhibit A.8). PBOT reviewed the Applicant's analysis and provided a written response at the September 7, 2011 hearing (Exhibit H.7). PBOT looked at six truck route options. PBOT did not recommend three of the routes because they relied too heavily on neighborhood streets. PBOT preferred routes 4-6 because those routes rely primarily on streets that are classified as truck routes in the City's TSP. These routes generally do not rely on smaller neighborhood streets. PBOT did not recommend a condition that dictated a specific truck route for all Safeway trucks. However, PBOT did support a condition that Safeway delivery trucks use routes that are limited to streets that are classified as truck access streets on the City's TSP. The Applicant's supplemental transportation report prepared by Kittelson & Associates, dated September 20, 2011, states that the Applicant accepts this condition (Exhibit 13a). The Hearings Officer finds that the Applicant's truck route analysis, PBOT's review, and the Applicant's supplemental transportation report provide substantial evidence that Policy 6.30 can be met. With PBOT's recommended condition of approval, the proposal is on balance consistent with Policy 6.30.

*Policy 6.40 Southwest Transportation District*

Address outstanding transportation issues in the Southwest District through studies and multimodal improvements, and use the transportation policy and objectives in the Southwest Community Plan to evaluate potential changes to the street system.

Comment: BDS staff found that for all the reasons discussed under Goal 6, the application is, on balance, supportive of the transportation policy and objectives in the Southwest Community Plan. The Hearings Officer agrees.

**GOAL 7: Energy**

*Promote a sustainable energy future by increasing energy efficiency in all sectors of the city by ten percent by the year 2000.*

**Findings:** Goal 7 policies and objectives are directed toward local jurisdictions in implementing energy related strategies, and not individual applicants. However, BDS staff observed that the proposal is consistent with this goal because the project will modernize and enhance commercial support services in the area and reduce the need to travel to other areas to shop. The Hearings Officer agrees that on balance, the proposal is supportive of Goal 7.

**GOAL 8: Environment**

*Maintain and improve the quality of Portland's air, water and land resources and protect neighborhoods and business centers from detrimental noise pollution.*



**Findings:** BDS staff found, and the Hearings Officer agrees, that the proposal will not adversely impact the City's air, water or land resources. If approved, the proposed development will be subject to the Zoning Code's off-site impacts regulations in Chapter 33.262 and must comply with the City's Title 18 noise regulations that protect neighborhoods from detrimental noise levels.

*Policy 8.4 Ride Sharing, Bicycling Walking and Transit*

Promote the use of alternative modes of transportation such as ridesharing, bicycling, walking, and transit throughout the metropolitan area.

Comment: As noted previously in this recommendation, the site has frontage on SW Barbur Boulevard, a designated major transit corridor, and a City bikeway and walkway. SW Multnomah Boulevard is also a designated City bikeway and SW Capitol Hill Road is a designated City walkway. BDS staff has recommended a condition to require frontage improvements that support the designations of the three fronting streets. The Applicant has agreed to this condition. Therefore, on balance, the proposal is supportive of this policy.

**GOAL 9: Citizen Involvement**

*Improve the method for citizen involvement in the on-going land use decision-making process and provide opportunities for citizen participation in the implementation, review and amendment of the adopted Comprehensive Plan.*

**Findings:** BDS staff found, and the Hearings Officer concurs, that the proposal is consistent with policies 9.1, Citizen Involvement Coordination and 9.3, Comprehensive Plan Map Amendment and therefore is consistent with Goal 9 Citizen Involvement.

*Policy 9.1 Citizen Involvement Coordination.*

Encourage citizen involvement in land use planning projects by actively coordinating the planning process with relevant community organizations.

Comment: The record shows that the Applicant has discussed the proposal at numerous meetings with representatives of the Multnomah Neighborhood Association (Exhibit A.18). In April 2011, the Applicant also made a presentation at a community meeting for the Multnomah, Hillsdale, South Burlingame and Marquam Neighborhood Associations, as previously discussed under Policy 3.5, Neighborhood Involvement.

The City provided notice of the proposed Comprehensive Plan Map Amendment and Zone Change to surrounding property owners within 400 feet of the site, and to the Multnomah, Hillsdale and South Burlingame Neighborhood Associations in order to inform them of their opportunity to comment on the application both in writing and at the public hearings on this application. In addition, the site has been posted per the requirements of the Portland Zoning Code for Type III Land Use Reviews. The requested land use review supports this policy.

*Policy 9.3 Comprehensive Plan Amendment*

Allow for the review and amendment of the adopted Comprehensive Plan which insures citizen involvement opportunities for the city's residents, businesses and organizations.

Comment: The land use review process requires citizen involvement through mailed requests for responses, posting of the site, mailed notifications of public hearings, and public hearings before the Hearings Officer and City Council. Citizen involvement efforts related to this case are detailed in response to Policy 9.1, above. This policy has been met.

***GOAL 10: Plan Review and Administration***

*Portland's Comprehensive Plan will undergo periodic review to assure that it remains an up-to-date and workable framework for land use development. The Plan will be implemented in accordance with State law and the Goals, Policies and Comprehensive Plan Map contained in the adopted Comprehensive Plan.*

**Findings:** The relevant policies under Goal 10 are policies 10.7 and 10.8:

*Policy 10.7 Amendments to the Comprehensive Plan Map*

The Planning Commission must review and make recommendations to the City Council on all legislative amendments to the Comprehensive Plan Map. Quasi-judicial amendments to the Comprehensive Plan Map will be reviewed by the Hearings Officer prior to City Council action, using procedures stated in the zoning code. For quasi-judicial amendments, the burden of proof for the amendment is on the Applicant. The Applicant must show that the requested change is:

(1) Consistent and supportive of the appropriate Comprehensive Plan Goals and Policies,

Comment: The record, public hearing, analysis and findings in this recommendation demonstrate that the proposed Plan Map Amendment is, on balance, supportive of and consistent with the relevant goals and policies of the Comprehensive Plan.

(2) Compatible with the land use pattern established by the Comprehensive Plan Map,

Comment: BDS staff found, and the Hearings Officer agrees, that the requested plan designation and zoning for this site is compatible with the general land use pattern established by the Comprehensive Plan for the area around the site. The requested General Commercial designation would expand the CG zoning pattern approximately 20,000 square feet to the west. The CG zone already exists to the northeast on the north side of SW Capitol Hill Road, and to the south, east and west, on properties that front both sides of SW Barbur Boulevard. The proposal is consistent with Policy 10.7.

(3) Consistent with the Statewide Land Use Planning Goals, and

Comment: The State of Oregon Land Conservation and Development Commission (LCDC) has acknowledged the Comprehensive Plan for the City of Portland. The city goals mentioned in "LCDC and Comprehensive Plan Considerations" are comparable to the statewide planning goals in

that City Goal 1 is the equivalent of State Goal 2 (Land Use Planning); City Goal 2 addresses the issues of State Goal 14 (Urbanization); and City Goal 3 deals with the local issues of neighborhoods. The following city and state goals are similar: City Goal 4, State Goal 10 (Housing); City Goal 5, State Goal 9 (Economic Development); City Goal 6, State Goal 12 (Transportation); City Goal 7, State Goal 13 (Energy Conservation); City Goal 8, State Goals 5, 6 and 7 (Environmental Impacts); and City Goal 9, State Goal 1 (Citizen Involvement). City Goal 10 addresses city plan amendments and rezoning; and City Goal 11 is similar to State Goal 11 (Public Facilities and Services). Other statewide goals relate to agricultural, forestry and coastal areas, etc., and therefore do not specifically apply to this site.

For quasi-judicial plan amendments, compliance with the city's plan goals, as discussed here, show compliance with applicable state goals. The record shows that overall, the City goals and policies are supported by the proposal. Consequently, the proposal is consistent with all applicable statewide goals.

(4) Consistent with any adopted applicable area plans adopted as part of the Comprehensive Plan.

Comment: As previously discussed above in this recommendation, the proposal is consistent with the adopted Southwest Community Plan.

#### *Policy 10.8 Zone Changes*

Base zone changes within a Comprehensive Plan Map designation must be to the corresponding zone stated in the designation. When a designation has more than one corresponding zone, the most appropriate zone will be applied based on the purpose of the zone and the zoning and general land uses of surrounding lands. Zone changes must be granted when it is found that public services are presently capable of supporting the uses allowed by the zone, or can be made capable prior to issuing a certificate of occupancy. The adequacy of services is based on the proposed use and development. If a specific use and development proposal is not submitted, services must be able to support the range of uses and development allowed by the zone. For the purposes of this requirement, services include water supply, sanitary sewage disposal, stormwater disposal, transportation capabilities, and police and fire protection.

Comment: The General Commercial designation has one corresponding zone, the General Commercial zone, which implements the designation. The proposed Comprehensive Plan Map Amendment from Medium-Density Multi-Dwelling Residential to General Commercial is combined with a Zoning Map Amendment request to place the corresponding zone of CG on the site in the configuration shown on the attached Proposed Zoning Map (Exhibit B.2). These policies and objectives are implemented through this land use review, and are specifically addressed in findings for conformance with the approval criteria for the proposed Zone Map Amendment, 33.855.050.A-C. To the extent that applicable approval criteria of 33.855.050.A-C contained in this recommendation are met, these policies and objectives are also met.

***GOAL 11 A: Public Facilities***

*Provide a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities.*

**Findings:** BDS staff concluded, and the Hearings Officer agrees, that the proposal is consistent with Goal 11 and Policy 11.2. Agency responses to this proposal indicate that either adequate public facilities and services already exist or can be reasonably made available as discussed under approval criterion 33.855.050(B) below, and in Exhibits E.1 through E.10.

***Policy 11.2, Orderly Land Development***

Urban development should occur only where urban public facilities and services exist or can be reasonably made available.

***Comment:*** The adequacy of public facilities is discussed in detail below in the findings for criterion 33.855.050(B), which are incorporated here by this reference.

***GOAL 12: Urban Design***

*Enhance Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations.*

**Findings:** BDS staff found, and the Hearings Officer agrees, that the proposal is consistent with Goal 12 and its policies, which are intended to enhance Portland's identity as a livable city with attractive amenities creating a dynamic urban environment through quality projects.

***Policy 12.1 Portland's Character***

Enhance and extend Portland's attractive identity. Build on design elements, features and themes identified with the City. Recognize and extend the use of City themes that establish a basis of a shared identity reinforcing the individual's sense of participation in a larger community.

***Policy 12.2 Enhancing Variety***

Promote the development of areas of special identity and urban character. Portland is a city built from the aggregation of formerly independent settlements. The City's residential, commercial, and industrial areas should have attractive identities that enhance the urbanity of the City.

***Objective C***

Foster the development of an attractive urban character along Portland's commercial streets and in its commercial districts. Accommodating pedestrians as shoppers and visitors in commercial areas is a major priority of development projects. Commercial areas should allow the development of a mixture of uses, including residential uses. Add new building types to establish areas with care and respect for the context that past generations of builders have provided.

*Policy 12.4 Provide for Pedestrians*

Portland is experienced most intimately by pedestrians. Recognize that auto, transit and bicycle users are pedestrians at either end of every trip and that Portland's citizens and visitors experience the City as pedestrians. Provide for a pleasant, rich and diverse experience for pedestrians. Ensure that those traveling on foot have comfortable, safe and attractive pathways that connect Portland's neighborhoods, parks, water features, transit facilities, commercial districts, employment centers and attractions.

Comment: Because the site and surrounding properties are not within a Design Overlay zone, the proposal will not be subject to Design Review. However, the specific proposal has elements that create a strong identity. The record shows that the project will be urban in character with structured parking and pedestrian and transit friendly elements. For these reasons, the proposal supports Policies 12.1, 12.2 and 12.4.

**33.810.050 Comprehensive Plan Map Approval Criteria**

A.2. When the requested amendment is:

- From a residential Comprehensive Plan Map designation to a commercial, employment, industrial, or institutional campus Comprehensive Plan Map designation; or
- From the urban commercial Comprehensive Plan Map designation with CM zoning to another commercial, employment, industrial, or institutional campus Comprehensive Plan Map designation;

the requested change will not result in a net loss of potential housing units. The number of potential housing units lost may not be greater than the potential housing units gained. The method for calculating potential housing units is specified in subparagraph A.2.a, below; potential housing units may be gained as specified in subparagraph A.2.b, below.

- a. Calculating potential housing units. To calculate potential housing units, the maximum density allowed by the zone is used. In zones where density is regulated by floor area ratios, a standard of 900 square feet per unit is used in the calculation and the maximum floor area ratio is used. Exceptions are:
  - (1) In the RX zone, 20 percent of allowed floor area is not included;
  - (2) In the R3, R2, and R1 zones, the amenity bonus provisions are not included; and
  - (3) In the CM zone, one half of the maximum FAR is used.

- (4) Where a residentially zoned area is being used by an institution and the zone change is to the Institutional Residential zone, the area in use as part of the institution is not included.
  - (5) Where a residentially zoned area is controlled by an institution and the zone change is to the Institutional Residential zone the area excluded by this provision also includes those areas within the boundaries of an approved current conditional use permit or master plan.
- b. Gaining potential housing units. Potential housing units may be gained through any of the following means:
- (1) Rezoning and redesignating land off site from a commercial, employment, or industrial designation to residential;
  - (2) Rezoning and redesignating lower-density residential land off site to higher-density residential land;
  - (3) Rezoning land on or off site to the CM zone;
  - (4) Building residential units on the site or in a commercial or employment zone off site. When this option is used to mitigate for lost housing potential in an RX, RH, or R1 zone, only the number of units required by the minimum density regulations of the zone are required to be built to mitigate for the lost housing potential; or
  - (5) Any other method that results in no net loss of potential housing units, including units from the housing pool as stated in 33.810.060 below.
  - (6) In commercial and employment zones, residential units that are required, such as by a housing requirement of a plan district, are not credited as mitigating for the loss of potential units.
  - (7) When housing units in commercial or employment zones are used to mitigate for lost housing potential, a covenant must be included that guarantees that the site will remain in housing for the credited number of units for at least 25 years.

**Findings:** The proposal includes a requested amendment from a residential to commercial zoning designation, and therefore the provisions for no net loss in housing potential are applicable. The housing unit potential of the subject site, currently under R1 zoning, is 20 units.

To address the potential loss of housing units and meet the no-net loss requirement of this criterion, the Applicant proposes to mitigate the loss of housing unit potential by dedicating, through a

protective covenant, 20 units within the Belmont Dairy housing development at 3342 SE Morrison Street. The 20 units will be required to remain in residential use for at least 25 years as demonstrated in the covenant (Exhibit A.1.a). This dedication mitigates the potential loss of units that could be built on the subject site. A condition of approval is recommended that requires the covenant be recorded. BDS staff noted that this approach was used for a 2008 Comprehensive Plan Map Amendment for a site in outer-southeast Portland. There, a covenant was approved for the protection of 93 housing units that are located a half mile away from the Safeway site at the Headwaters Housing project at 8833 SW 30<sup>th</sup> Avenue. The Hearings Officer finds that imposing a similar condition to this proposal will suffice to meet this criterion.

### **33.855.050 Approval Criteria for Base Zone Changes**

An amendment to the base zone designation on the Official Zoning Maps will be approved (either quasi-judicial or legislative) if the review body finds that the Applicant has shown that all of the following approval criteria are met:

#### **A. Compliance with the Comprehensive Plan Map.** The zone change is to a corresponding zone of the Comprehensive Plan Map.

1. When the Comprehensive Plan Map designation has more than one corresponding zone, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.

**Findings:** The proposed Comprehensive Plan Map designation is General Commercial. This designation has only one corresponding zone, General Commercial. Therefore, this criterion does not apply.

2. Where R zoned lands have a C, E, or I designation with a Buffer overlay, the zone change will only be approved if it is for the expansion of a use from abutting nonresidential land. Zone changes for new uses that are not expansions are prohibited.

**Findings:** The subject parcel is currently zoned R1, Multi-Dwelling Residential 1,000, but there is no Buffer overlay designation on the site or on any adjacent commercially-zoned parcels. This criterion is not applicable.

3. When the zone change request is from a higher-density residential zone to a lower-density residential zone, or from the CM zone to the CS zone, then the approval criterion in 33.810.050 A.2 must be met.

**Findings:** The subject parcel is currently zoned R1, and the proposal is to change to the CG zone. Therefore this criterion is not applicable.

#### **B. Adequate public services.**

1. Adequacy of services applies only to the specific zone change site.



2. Adequacy of services is determined based on performance standards established by the service bureaus. The burden of proof is on the Applicant to provide the necessary analysis. Factors to consider include the projected service demands of the site, the ability of the existing and proposed public services to accommodate those demand numbers, and the characteristics of the site and development proposal, if any.
  - a. Public services for water supply, and capacity, and police and fire protection are capable of supporting the uses allowed by the zone or will be capable by the time development is complete.
  - b. Proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services. Performance standards must be applied to the specific site design. Limitations on development level, mitigation measures or discharge restrictions may be necessary in order to assure these services are adequate.
  - c. Public services for transportation system facilities are capable of supporting the uses allowed by the zone or will be capable by the time development is complete. Transportation capacity must be capable of supporting the uses allowed by the zone by the time development is complete, and in the planning period defined by the Oregon Transportation Rule, which is 20 years from the date the Transportation System Plan was adopted. Limitations on development level or mitigation measures may be necessary in order to assure transportation services are adequate.

**Findings:** BDS staff found, based on the analysis set forth below, that services are adequate or will be made adequate through the imposition of conditions to meet 33.855.050(B). Some neighborhood residents questioned whether the application complied with the TPR for the same reasons that they questioned compliance with Goal 6 of the City's Comprehensive Plan. The Hearings Officer has reviewed those comments and finds that for the same reasons set forth in the findings for Goal 6, the proposal demonstrates that transportation system facilities are capable of supporting the rezoned and redeveloped Safeway property. Those findings are incorporated here by this reference.

**33.855(B)(2)(a)** – BDS staff incorporated a comment from the City Water Bureau in response to this criterion. No contrary argument or evidence was submitted to contradict the Water Bureau's findings. The BDS staff findings are as follows:

The Water Bureau responded that the site has three services, at two separate property locations that are part of the proposed development which provide water to the proposed development site, and they are as follows:

1. 8039 SW Capitol Hill Road: 5/8" metered service - Serial #29487339, Account #2969160800
2. 8145 SW Barbur Boulevard: (1) 2" metered service - Serial #31611072, Account #2993747300

And (2) 6" metered fire service - Serial #1029791001, Account #2994682300

The above listed services are from the existing 6" water main in SW Capitol Hill Road. The estimated static water pressure range for this location is 57 psi to 72 psi at the existing service elevation of 476 feet.

Per City code 21.12.070, water services may not cross separate land parcels/tax properties to supply water to another. Prior to the Water Bureau signing off on the building permit, the separate tax lots must be consolidated into one property through the Multnomah County Tax Assessors office.

City code 21.12.010 will require any new building construction, building remodeling, adding to an existing structure or any construction that will need water, to have a water service and meter of appropriate size installed within the public right-of-way and within the specific property boundary/frontage for which it will serve. A Water Bureau review for fixture count will need to be submitted by the Applicant at the time of submittal of the building permit to appropriately size the water service and meter for this property. If a water service and/or meter upsize is required, all applicable costs will be the responsibility of the Applicant (Exhibit E.3).

The Fire Bureau responded that at building permit review, staff will verify that all Fire Code standards are met (Exhibit E.4).

The Police Bureau raised concerns about graffiti in non-monitored areas and cut-through traffic at the back of the proposed grocery store, near the loading area. In order to address public safety concerns, they recommended conditions be imposed that require the installation of security monitoring cameras and traffic calming devices. Staff recommended these conditions be imposed to prevent crime and safety conflicts (Exhibit E.5).

The Bureau of Parks-Forestry Division noted no concerns (Exhibit E.7).

The Hearings Officer agrees with BDS staff that based on the agency responses identified above, public services are adequate or will be made adequate at time of development.

**33.855.050(B)(2)(b)**- BDS staff related that with respect to sanitary sewer and stormwater capacity, BES has no objection to the proposal. BES noted that the proposed development will be subject to BES standards and requirements during the permit review process. There was no relevant argument or evidence submitted into the record contradicting the BES comments. The Hearings Officer

agrees with BDS staff that the proposed sanitary waste disposal and stormwater systems are or will be made sufficient to support the proposal. The BDS staff report findings are as follows:

#### **SANITARY SERVICE**

##### *Existing Sanitary Infrastructure:*

- There is an 8-inch concrete public sanitary gravity sewer located in SW Capitol Hill Road (BES project # 2221).
- There is an 8-inch concrete public sanitary gravity sewer located in SW Multnomah Boulevard (BES project # 2226).

*Service Availability:* The public sanitary sewer in this location is predicted to have adequate capacity for the increased flows resulting from the proposed zone change.

a. At the time of building permit review, the Applicant will be required to locate all existing sanitary laterals and identify proposed sanitary laterals.

*Private Easements:* The project area includes three separate properties, two currently zoned residential and one commercial. Utilities that cross property boundaries must be covered by covenants for future easements, even if the properties are currently in the same ownership, or the platted lots must be consolidated prior to building permit approval. Private sewer easements may not be less than 10 feet wide unless a reduction in easement width is approved through a plumbing code appeal.

#### **STORMWATER MANAGEMENT**

##### *Existing Stormwater Infrastructure:*

- There is a concrete public storm-only sewer system that varies in size located in SW Capitol Hill Road northwest of this site (BES project #1974).
- There is a concrete public storm-only sewer located in SW Multnomah Boulevard (BES project # 2821). BES maintains the 10-inch concrete portion of the storm sewer system in SW Multnomah Boulevard.

*Public Sewer Extension:* The owner or Applicant will be required to extend the storm-only sewer in SW Capitol Hill Road to provide a valid stormwater discharge point for required street improvements. A public works permit, or other permit as determined by BES, will be required for such work. The Applicant has substantially completed the concept review (30% design) phase, including a meeting with City staff to discuss the scope and details of the required improvements. BES requires completion of this phase prior to land use approval in order to identify significant issues that affect the feasibility of the development relative to required improvements. In addition, prior to building

permit approval, BES will require that the Applicant provide a financial guarantee and pay all required engineering fees.

*On-Site Stormwater Management Comments:* BES reviews stormwater management facilities on private property for the feasibility of infiltration, pollution reduction, flow control, and off-site discharges. The Site Development Section of BDS determines if stormwater infiltration on private property is feasible when slopes on or near the site present landside or erosion related concerns, or where proximity to buildings might cause structural problems.

BES has reviewed the Stormwater Report from Group MacKenzie dated August 11, 2011, and the Geotechnical Engineering Report from GeoPacific dated November 18, 2009. The Geotechnical Engineering Report includes Presumptive Approach infiltration test results of 0.03 and 0.06 inches per hour. The Applicant proposes off-site discharge to the storm sewer in SW Multnomah Boulevard after treatment in seven water quality planters and detention in five underground CMP detention pipes sized per the Presumptive Approach. BES has no objections to this approach for the purposes of land use review, as the infiltration tests indicate that on-site infiltration is not feasible. Provided that all requirements of the SWMM are met at the time of permit review, the public storm system is predicted to have adequate capacity for stormwater discharge from this site (Exhibit E.1).

The Site Development Section of BDS responded that the proposed new development must be reviewed by BES for compliance with the stormwater infiltration and discharge hierarchy. The infiltration rates are expected to be low in this area. The cesspool system for 8039 SW Capitol Hill Road must be decommissioned at time of demolition. Also, a geotechnical report will be required at the time of building permit review (Exhibit E.6).

**33.855.050(B)(2)(c)** - The BDS Staff Report addressed this section by incorporating PBOT's response into the application. That response is set forth below. BDS staff and PBOT found that the proposal is both consistent with Goal 6 policies and demonstrates compliance with

**33.855.050(B)(2)(c)**. The Hearings Officer agrees and finds that there is no relevant argument or substantial evidence in the record to contradict PBOT's conclusions. The PBOT response is as follows:

Safeway is proposing to redevelop their existing store site located at 8145 SW Barbur Boulevard in Portland, Oregon. The 21,665 square-foot Safeway and a single family home currently located on the site will be replaced by a new larger store. Occupancy of the new store is anticipated in 2012.

The existing Safeway site has seven full-access driveways: three on SW Capitol Hill Road, two on SW Barbur Boulevard, and two on SW Multnomah Boulevard. Redevelopment of the site will reduce the number of driveways to four: two full-access driveways on SW Capitol Hill Road, a right-in only driveway on SW Multnomah Boulevard, and a right-in/right-out driveway on SW Multnomah Boulevard.

The transportation impact analysis described in the Applicant's report was prepared in accordance with the City of Portland's and Oregon Department of Transportation's (ODOT) requirements. Based on the results of the transportation impact analysis, the proposed Safeway store redevelopment can be completed while maintaining acceptable operations on the surrounding transportation system assuming provision of the recommended mitigation measures summarized below.

### **Transportation Impact Analysis**

#### **2010 Existing Conditions**

- All of the study intersections operate acceptably during both the weekday a.m. and p.m. peak hours under 2010 existing conditions
- A TriMet bus stop with covered shelter is located approximately mid-block along the Safeway store site frontage on SW Capitol Hill Road.
- The approximately 200-foot long segment of SW Barbur Boulevard between SW Capitol Hill Road and SW Multnomah Boulevard has experienced 21 reported crashes in the five-year period for which crash data is most recently available. The location of existing Safeway driveways, a TriMet bus stop, bicycle traffic, and an existing auxiliary lane result in several weaving and turn maneuvers along this stretch of roadway.

#### **2012 Background Conditions**

All of the study intersections are forecast to operate acceptably during both the weekday a.m. and p.m. peak hours under 2012 background conditions; however, 95<sup>th</sup> percentile southbound left-turn lane queues on SW Barbur Boulevard at its intersection with SW Capitol Hill Road-SW 19<sup>th</sup> Avenue are forecast to exceed the available storage.

#### **Proposed Development Plan**

The proposed redevelopment of the SW Barbur Boulevard Safeway store is estimated to generate approximately 2,410 additional net new daily trips, of which 80 additional trips are projected during the weekday a.m. (55 in, 25 out) and 180 during the weekday p.m. (90 in, 90 out) peak hour. The proposed new Safeway store alone, not subtracting the existing store trips, is estimated to generate 400 weekday p.m. peak hour trips, which is lower than the site trip cap (identified through the Transportation Planning Rule Analysis) of 450 net new weekday p.m. peak hour trips. Accordingly, the Safeway store proposal will not exceed the trip cap.

The SW Capitol Hill Road frontage will be restriped (and widened along the western portion of the site) to provide a three-lane roadway between SW Barbur Boulevard and the proposed western site driveway. An existing speed hump on SW Capitol Hill Road located at the proposed site driveway will be removed and reconstructed west of the main site driveway.

The existing TriMet bus shelter on SW Barbur Boulevard will be relocated

and replaced. A new bus pullout and shelter area will be provided on SW Barbur Boulevard at the northeastern corner of the Safeway site frontage. The reconfigured and enhanced bus area should improve bus operations and safety while also reducing the potential for pedestrians to cross SW Barbur Boulevard mid-block to reach the bus stop.

The existing auxiliary lane from SW Barbur Boulevard to SW Multnomah Boulevard will be reconfigured, allowing for separate bus pullout and improved transitions for southbound TriMet and bicycle traffic.

Access to the Safeway site will be significantly reconfigured:

- The two existing site driveways on SW Barbur Boulevard will be closed;
- The four existing site driveways on SW Capitol Hill Road will be closed and replaced by one full movement driveway serving the main parking area and one full movement driveway at the west end of the site serving delivery circulation.
- The two existing driveways on SW Multnomah Boulevard will be replaced with a right-in only driveway located west of the existing driveway and a right-in/right-out driveway at the west end of the property.

#### **2012 Total Traffic Conditions**

- All of the study intersections are forecast to continue to operate acceptably during both the weekday a.m. and p.m. peak hours.
- Similar to 2012 background traffic conditions, 95<sup>th</sup> percentile left-turn lane queues on SW Barbur Boulevard are forecast to exceed the available storage in both directions at the SW Barbur Boulevard/SW Capitol Hill Road-SW 19<sup>th</sup> Avenue intersection.
- Installation of protected/permissive left-turn signals on SW Barbur Boulevard at the intersection mitigates the proposed Safeway store's impact to the left-turn queues.

#### **Recommendations**

Provide the following frontage improvements:

- Relocation of the existing speed existing speed bump on SW Capitol Hill Road to the west of the proposed site driveway.
- Reconstruction of the site frontage along SW Barbur Boulevard as shown on the proposed site plan to eliminate the existing auxiliary lane and in its place provide:
  - A bus pullout on SW Barbur Boulevard at SW Capitol Hill Road;
  - A right-turn deceleration area onto the SW Multnomah Boulevard Ramp; and
  - A curb extension at the SW Multnomah Boulevard Ramp at the departure point from SW Barbur Boulevard.
- Install protected-permitted left-turn signal phasing on the SW Barbur Boulevard approaches to the SW Barbur Boulevard/SW Capitol Hill Road-SW 19<sup>th</sup> Avenue intersection to better manage left-turn queues.

The following general signing recommendations are also offered and will be reviewed and approved during the engineering phase of the street job improvements:

- Install a "STOP" sign on the northbound approach of the two site

driveways along SW Capitol Hill Road and on the southbound driveway approach to SW Multnomah Boulevard, in compliance with the Manual on Uniform Traffic Control Devices (MUTCD).

- Install a "Right Turn Only" sign on the southbound driveway approach to SW Multnomah Boulevard (below the STOP sign) in compliance with the MUTCD.
- Install "One Way" and "Do Not Enter" signs at the west end of the interior parking lot exit ramp (between the store parking area and the new western driveway) in compliance with the MUTCD. The signs should be oriented towards drivers who might mistakenly try to enter the Safeway parking lot from the west truck loading area.
- Provide on-site guide signing to direct motorists within the parking lot destined to SW Barbur Boulevard to use the SW Capitol Hill Road driveway. In addition, provide on-site guide signing to the Westbound Multnomah Boulevard Ramp.
- Locate and maintain any new landscaping and/or aboveground utilities installed along the site frontage and internal roadways properly to ensure adequate sight distance is available.

**Note:** See Street Improvements (Chapter 17.88) section below for sidewalk corridor improvements triggered by 17.88.020 for redevelopment of the site.

#### **Neighborhood Concerns**

Concerned citizens (Exhibits F.3 and F.4) have stated a desire for separate bike lanes on SW Capitol Hill Road along the Safeway frontage.

*Staff Note: As explained above, under Policy 6.23, staff will submit additional comments regarding the necessary improvements on SW Capitol Hill Road.*

#### **TRANSPORTATION PLANNING RULE ANALYSIS**

This section presents the transportation implications of the proposed rezone as they relate to the Oregon TPR. Oregon Statewide Planning Goals and the Oregon Administrative Rules (OAR) establish the parameters under which a rezone may be approved. OAR Chapter 660-12-060, the TPR, establishes criteria under which a rezone's transportation impacts must be evaluated.

The first step in assessing the transportation impact is to compare the trip generation potential of the site assuming a "reasonable worst-case" development scenario under the existing and proposed zoning. If the trip generation potential increases under the proposed zoning, additional operational analysis is required to assess whether the rezone will "significantly affect" the transportation needs. Conversely, if the trip generation potential is reduced, the traffic impacts of site development are also reduced.

#### **Study Scenarios**

Site-generated impacts assuming full build-out of the 0.47-acre property were determined by evaluating two different year-2035 development scenarios: 1) a reasonable worst-case scenario under the current R1 plan

and zoning designation, and 2) a reasonable worst-case scenario under the proposed CG plan and zoning designation.

For the existing zoning (R1) scenario, the maximum number of residential dwelling units was assumed to be 20 residential condominium/townhouse units (based on the 43 units per acre density requirement noted in the zoning code).

A range of allowable land uses were initially considered for the proposed reasonable worst-case zoning (CG) scenario, including general retail space, a daycare center, a fast-foot restaurant, and a medical office building. Based on the size of the parcel and a number of minimum requirements for CG zones (parking, landscaping, setbacks, etc.), it was determined that a very conservative land use assumption would be an 8,100 square-foot fast-food restaurant with a drive-through.

As such, this land use was assumed as the reasonable worst-case scenario under the proposed zoning.

#### **Determination of Significant Affect**

For land use cases involving an amendment to a local comprehensive plan, the Oregon Highway Plan Implementation Action 1F.6 states that the performance of an intersection shall not be degraded further in situations where the intersection volume-to-capacity ratio exceeds the ODOT mobility standard. Additionally, the policy states that if an amendment to a comprehensive plan increases the volume-to-capacity ratio further, it will significantly affect the facility.

The TPR also contains language similar to the OHP Implementation Action 1F.6. Specifically OAR 660-012-0060 section 1(c)(C) states that a plan or land use regulation amendment significantly affects a transportation facility if it would "worsen the performance of an existing intersection or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan."

Based on the interpretations of OHP Action 1F.6 and the TPR, it can be concluded that the proposed CG zoning scenario "significantly affects" the SW Barbur Boulevard/SW Capitol Hill Road intersection.

#### **Recommended Significant Affect Mitigation**

OAR 660-012-0060 Section 3(c) states that a local government may approve an amendment that would significantly affect an existing transportation facility, where a development will mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility.

Accordingly, it is recommended that a "trip cap" be imposed on the 0.47 acre site to comply with the TPR and related policies of the Oregon Highway Plan related to the proposed rezone. The trip cap would be established to limit the future trip generation potential of the 0.47-acre site to the maximum reasonable worst-case scenario that exists under the current R1 designation (10 net new weekday p.m. peak hour trips). The trip cap would ensure that no additional trips are



generated to or from the site as a result of future redevelopment under the proposed rezone. Further, implementing the proposed left-turn signal phasing at SW Barbur Blvd and SW 19<sup>th</sup> Ave will also improve Level of Service for that intersection.

#### **Impact to Other Off-site Intersections**

Other intersections in the study area will be impacted by site redevelopment, including SW Spring Garden/19th Avenue, the I-5 off-ramp at SW Barbur Boulevard/24th Avenue, and the I-5 off ramp at SW Multnomah Boulevard. Operations of these intersections were studied as part of the previously summarized transportation impact study. These intersections were not studied for TPR purposes because the proposed trip cap will ensure these intersections won't be impacted by any more trips than if the entire Safeway site were built out to a higher use under the existing zoning.

#### **Implications For Future Site Development**

While the proposed comprehensive plan and zoning amendment relates exclusively to the 0.47 acres west of the existing Safeway store, Safeway proposes to redevelop the combined 2.41-acre property (the rezoned 0.47 acres plus the existing 1.94-acre Safeway store site). As such, a trip cap for the contiguous site should be considered. To establish a trip cap for the combined site, a reasonable worst-case development scenario for the 1.94-acre site must also be prepared. The sum total of trips generated by the reasonable worst-case development scenarios for the contiguous 2.41-acre site can be used to determine the appropriate trip cap.

The reasonable worst-case development scenario for the 0.47-acre portion has already been documented. Based on the City's zoning requirements for the CG zone and a review of several allowed uses in the CG zone considered reasonable for this size parcel, it was determined that the most conservative land use assumption would be a supermarket. A worst-case development scenario for the 1.94-acre Safeway site was prepared with the following assumptions:

- Assume 85 percent of the site is developed, accounting for provision of a minimum 15 percent landscaping;
- Assume the entire store is pillared, with ground-level parking provided underneath the building structure;
- Assume an additional 10 percent reduction in store size to account for additional right-of-way dedications; and,
- Assume an 11-foot setback requirement for the side of the store facing the current R1 parcels to the west.

These assumptions result in a maximum developable building size of 64,647 square feet. The combined reasonable worst-case site trip generation potential for the contiguous 2.41-acre site results in a total of 450 (232 in, 218 out) net new weekday p.m. peak hour trips. Application of a 450 weekday p.m. peak hour trip cap to the total site

will limit the future trip generation potential of the contiguous 2.41-acre site to the maximum reasonable worst case scenario and ensure compliance with the TPR and related policies of the OHP.

**Street Improvements (Chapter 17.88)**

1. The Applicant will be required to construct sidewalk on SW Capitol Hill Road. This will require a dedication.
  - a. Required frontage improvements along the unimproved frontage on the west property include widening the street to 18-feet from the existing striped centerline and constructing a 12-foot pedestrian zone consisting of a 6" curb, 4' furnishing zone (street trees), 6' sidewalk, 1.5' setback. Stormwater requirements will apply to areas of new sidewalk and may result in a wider furnishing zone and right-of-way dedication.
  - b. Required frontage improvements along the curbed section to the east include widening the sidewalk to 12' feet and adding street trees and street lighting as necessary. This will require a 6' dedication.
2. The Applicant will be required to reconstruct sidewalk on SW Barbur Boulevard. This will require a dedication.
  - a. Required frontage improvements include constructing a 12-foot pedestrian zone consisting of a 6" curb, 4' furnishing zone (street trees or stormwater planter), 6' sidewalk, 1.5' setback.
  - b. PBOT will work with ODOT to determine the location of the curb line. If the curb line remains in place, a 4' dedication will be required. Less dedication may be needed if ODOT agrees that the curb line can be pushed into the street. However, moving the curb line will trigger stormwater requirements.
3. The Applicant will be required to reconstruct sidewalk on SW Multnomah Boulevard. This will require a dedication.
  - a. Required frontage improvements along the unimproved frontage on the west property include constructing an 11-foot pedestrian zone consisting of a 6" curb, 4' furnishing zone (street trees), 6' sidewalk, 6" setback. Stormwater requirements will apply to areas of new sidewalk and may result in a wider furnishing zone and right-of-way dedication.
  - b. Required frontage improvements along the curbed section to the east include widening the sidewalk to 11' feet and adding street trees and street lighting as necessary. This will require a 2' dedication.

**STREET CLASSIFICATION AND CONFIGURATION**

SW Capitol Hill Road is a Neighborhood Collector, City Walkway and local

service street for all other modes in the TSP. It is a 50' ROW improved with a 26'-42' street and a 6' curb tight sidewalk for most of the frontage. PBOT will require a 6' dedication along the eastern property to accommodate a 12' pedestrian zone, including 6" curb, 4' furnishing zone (trees wells), 6' sidewalk, 1.5' frontage zone. Along the residential lot frontage, the curb line should be set at 18-feet from the existing striped centerline. Stormwater requirements will apply to areas of new sidewalk and may require additional ROW.

**SW Barbur Blvd** is a Major City Traffic Street, Regional Transitway/Major Transit Priority Street, City Bikeway, City Walkway, Major Truck Street and Major Emergency Response Route. ODOT has jurisdiction over the roadway while PBOT has jurisdiction over the sidewalk. The sidewalk is an existing 8' curb tight sidewalk. PBOT will require a 12' pedestrian zone, including 6" curb, 4' furnishing zone (tree wells or stormwater planter), 6' sidewalk, 1.5' frontage zone. PBOT will work with ODOT to determine the location of the curb on Barbur and any required dedication.

**SW Multnomah Blvd** is a City Bikeway, Truck Access Street and a local service street for all other modes in the TSP. It is a 50' ROW with a 26' street and 8' curb tight sidewalk with 1' buffer along most of the frontage. PBOT will require a 2' dedication along the eastern property to accommodate an 11' pedestrian zone, including 6" curb, 4' furnishing zone (trees wells), 6' sidewalk, 6" frontage zone. Along the residential lot frontage, the curb line should align with the curb to the east and to the west. Stormwater requirements will apply to areas of new sidewalk and may require additional ROW.

1. To accommodate sidewalk improvements along SW Capitol Hill Road, a 6-ft dedication of property for right-of-way purposes will be required on the eastern lot. A dedication may be required along the western property, depending on the width of required stormwater facilities.
2. To accommodate sidewalk improvements along SW Barbur Boulevard a right-of-way dedication of 4 feet will likely be required. PBOT will work with ODOT to determine the curb location and required dedication.
3. To accommodate sidewalk improvements along SW Multnomah Boulevard a 2-ft dedication of property for right-of-way purposes will be required along the eastern property. No dedication will be required along the western property.

The above dedications and street improvements will be conditions of building permit approval. The improvements along City streets must be constructed under a separate street job permit to City standards per the requirements of the City Engineer. The City will coordinate with ODOT for improvements along SW Barbur Blvd.

#### **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. (Exhibit E.2)

The Oregon Department of Transportation (ODOT) has not submitted a formal response. However, ODOT staff has been coordinating with the Applicant and PBOT and has reviewed the proposed frontage improvements and access onto the site. (Exhibit E.8)

3. Services to a site that is requesting rezoning to IR Institutional Residential, will be considered adequate if the development proposed is mitigated through an approved impact mitigation plan or conditional use master plan for the institution.

**Findings:** The proposal does not involve IR zoning, and therefore this criterion is not applicable.

- C. When the requested zone is IR, Institutional Residential.** In addition to the criteria listed in subsections A. and B. of this Section, a site being rezoned to IR, Institutional Residential must be under the control of an institution that is a participant in an approved impact mitigation plan or conditional use master plan that includes the site. A site will be considered under an institution's control when it is owned by the institution or when the institution holds a lease for use of the site that covers the next 20 years or more.

**Findings:** The request does not include the Institutional Residential zone. Therefore, this criterion is not applicable.

- D. Location.** The site must be within the City's boundary of incorporation. See Section 33.855.080.

**Findings:** The site is within the City of Portland. This criterion is met.

## **DEVELOPMENT STANDARDS**

The proposal to amend the Comprehensive Plan Map designation and Zoning Map does not have to meet development standards in order to be approved during this review process. When plans are submitted for a building or zoning permit, the Applicant must demonstrate that all development standards of Title 33 are met, or have received an Adjustment or Modification through a land use review prior to the approval of a building or zoning permit. The Applicant is requesting an Adjustment to the City's landscape standards which would allow a reduction of the minimum landscaped area from 15 percent to 14.4 percent of the development site.

The Applicant's request for a very slight adjustment in the landscape standards of 33.130.225 is in the context of a proposal to replace the existing 21,665 square foot Safeway store with a new 62,925 square foot two-story grocery store with 135 on-site vehicle parking spaces. BDS staff determined that the needed Adjustment can meet the requirements of 33.805.040. For the reasons discussed below, the Hearings Officer agrees.

### **33.805.010 Purpose of 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 Applicant is requesting an Adjustment to reduce the minimum total landscaping required on the site (Zoning Code Section 33.130.325) from 15 percent (14,686 square feet) to 14.4 percent (14,057 square feet).

The purpose for the City's landscaping standards is set forth in 33.130.225(A).

**33.130.225.A Purpose:** Landscaping is required in some zones because it is attractive and it helps soften the effects of built and paved areas. It also helps in reducing stormwater runoff by providing a surface into which stormwater can percolate. Landscaping is required for all commercially-zoned lands abutting R-zoned lands to provide buffering and promote livability of the residential lands.

BDS staff found that the new Safeway store will be a unique podium-style, multi-story, urban format with structured parking. Although the building is estimated to cover over 57 percent of the rezoned site, the Hearings Officer observes that the requested Adjustment would only reduce the landscaped area by approximately 629 square feet. In order to soften the effects of the proposed built and hardscaped area, the Applicant proposed to install shrubs, groundcover and trees along the frontages of the site. A tall solid wall and raised planter boxes will serve to buffer the rear of the store and loading activities from the western abutting residential sites. The proposal includes densely landscaped planter areas on the north side of the building which will create a softened edge along SW Capitol Hill Road. The proposed surface parking at the eastern edge of the site will be landscaped to meet interior and perimeter parking lot standards. Walkways, plazas and an elevated outdoor plaza area are planned and will create an attractive store front. BDS staff concluded, and the Hearings Officer agrees, that the unique design of the redeveloped store and the manner in which the landscaping is proposed equally or better meets the purpose of 33.130.225(A).

An interested neighbor submitted comments that recommend the use of native plants for landscaping, limiting the amount of impervious surfaces, and to construct infiltration stormwater facilities instead of flow-through facilities, which allow stormwater disposal into sewer facilities (Exhibit F.2). BES and BDS Site Development found that, based upon soil infiltration tests, the rate of infiltration was low on the site, and therefore, infiltration facilities would not be required. BES agreed that the Applicant should choose plant material from the Portland Plant List. To more fully address the purpose of the City's landscaping standard, BDS staff recommended a condition that will require at least 60 percent of the plant materials must be selected from the Portland Plant List. The Applicant's final comment submitted October 5, 2011, states that Safeway accepts the condition suggested by BDS staff which is Adjustment Condition of Approval D (Exhibit H.16). With this condition, the Hearings Officer finds that this criterion is met.

B. 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:** If the map designation and Zone Change request is approved, the entire site will be located in the General Commercial (CG) zone. PBOT has reviewed this concurrent application for conformance with adopted transportation policies, Title 17, and Title 33 approval criteria, as well as conformance with street designations. BDS staff found, and the Hearings Officer agrees, that the requested adjustment will not affect or conflict with the classification of the adjacent streets.

The Zoning Code defines the term "desired character" as being based on the purpose statement of the base zone, and the preferred and envisioned character included in adopted area plans. See 33.910.030. The purpose and characteristics of the CG zone are described as follows:

The CG zone is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most new 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 areas. 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 adopted Southwest Community Plan includes also a "Vision for Southwest Portland." Two relevant sections speak to the desired character of the area:

The Barbur Boulevard corridor is becoming a successful center for business and housing. With transit service and streetscape improvements, the area has attracted growing numbers of pedestrian-oriented retail and commercial services...

Neighbors, visitors, and employees enjoy the Southwest for its natural areas, open spaces, views and vistas, parks and plazas, walkways and parkways, and luxuriant greenery.

The Applicant's development proposal includes landscaped areas, particularly along the street frontages, a ground level and upper-story outdoor plaza area and a landscaped wall along the western edge of the project. BDS staff found that the proposed hardscape and landscaping improvements will be aesthetically pleasing for pedestrians, transit users, motorists, the store's customers and nearby residents. There is no conflicting argument or evidence in the record to contradict these conclusions. The Hearings Officer finds that the proposed Adjustment meets this criterion.

- 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. Therefore, this approval criterion does not apply.

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

**Findings:** BDS staff found there are no City designated scenic or historic resources on the site. Therefore, this criterion is not applicable.

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

**Findings:** In order to mitigate for the reduced landscape area, the Applicant has designed a project that offers multiple landscape features to further articulate the building, lessen its scale and soften the appearance of the development. The landscape features will include trellises and planters, both at the ground level and the upper outdoor plaza area. To reduce stormwater impacts, a condition will require at least 60 percent of the plant materials be native, selected from the Portland Plant List. BDS staff found, and the Hearings Officer concurs, that the Applicant's design plans, as conditioned, satisfy this criterion.

- 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:** The site is not within an environmental zone. This criterion is not applicable.

### III. CONCLUSIONS

The Hearings Officer concurs with BDS staff's conclusions that as conditioned, the proposal "on balance" satisfies the criterion in 33.810.050 for quasi-judicial Comprehensive Plan Map Amendments. For similar reasons, the Hearings Officer agrees with BDS staff that the proposal meets the approval criterion in 33.855.050 for Base Zone Changes.

The Hearings Officer also agrees that the record demonstrates that the requested Adjustment to the City's landscaping requirements will equally or better meet the purpose of requirements.

#### IV. RECOMMENDATION

**Approval** of a Comprehensive Plan Map Amendment and Zoning Map Amendment from Medium-Density Multi-Dwelling Residential (R1) to General Commercial (CG) for Tax Lot 4301 (8039 SW Capitol Hill Road) and Tax Lot 4302 subject to the following conditions:

- A. Prior to, or concurrent with recording a decision of approval with Multnomah County, the Applicant must execute and record a covenant which mitigates for the 20 units of lost housing potential. Per 33.703.120, prior to the City making any changes to the Comprehensive Plan Map or Zoning Map, documentation must be submitted by the Applicant that shows that both the Comprehensive Plan Map/Zoning Map amendment decision and the covenant have been recorded.
- B. Prior to building permit issuance, the Applicant must consolidate the three lots via a Lot Consolidation Review (33.675.100) and record the decision with the County. Or the Applicant must consolidate the lots through a County Tax Account Consolidation and submit covenants for future easements and joint maintenance agreements for the private utilities that cross property lines.
- C. As part of the building permit application submittal, the following development-related conditions (D through G) must be noted on each of the four 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 11-103310 CP ZC AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- D. Surveillance cameras must be installed to monitor the area located between the west property line and the loading area located at the back of the building.
- E. The Applicant shall be required to construct the frontage improvements identified in this report under the Section titled Street Improvements (Chapter 17.88) to City standards, per the requirements of the City Engineer. As a condition of building permit approval, the Applicant shall provide all dedications necessary to provide adequate right-of-way for these frontage improvements. The frontage improvements must be constructed under separate street job permits to current City and ODOT standards. Financial guarantees ensuring the frontage improvements shall also be conditions of building permit approval.
- F. Speed bumps and/or other traffic calming measures must be provided along the on-site delivery roadway to limit both vehicular speeds and cut-through traffic.



G. Uses on the site are limited to a total of 450 new weekday p.m. peak hour trips. Square footage equivalencies are to be applied per Table 1 below. The Applicant must submit a written verification at time of building permit that all uses on the site, both existing and proposed, have a maximum net new weekday p.m. peak hour trip generation of 450 trips. This applies to the combined three lots identified as the site.

**Table 1. Weekday PM Peak Hour Trip Rates for Trip Cap Comparison**

Land Use Category	ITE Code	Building Size	ITE Trip Rate	ITE PM Peak Hour Pass-by Rate	Weekday PM Peak Hour Net New Trip Rate*
Daycare	565	1,000 sq.ft. GFA	12.46	-	12.46 trips/1,000 sq. ft.
Office	710	1,000 sq.ft. GFA	1.49	-	1.49 trips/1,000 sq. ft.
Specialty retail	814	1,000 sq.ft. GLA	2.71	34%**	1.79 trips/1,000 sq. ft.
Hardware/paint store	816	1,000 sq.ft. GFA	4.84	-	4.84 trips/1,000 sq. ft.
Nursery/garden center	817	1,000 sq.ft. GFA	3.80	-	3.80 trips/1,000 sq. ft.
Shopping center	820	1,000 sq.ft. GLA	3.73	34%	2.46 trips/1,000 sq. ft.
Supermarket	850	1,000 sq.ft. GFA	10.50	36%	6.72 trips/1,000 sq. ft.
Drive-in bank	912	1,000 sq.ft. GFA	25.82	47%	13.68 trips/1,000 sq. ft.
High-turnover sit-down restaurant	932	1,000 sq.ft. GFA	11.15	43%	6.36 trips/1,000 sq. ft.
Fast food restaurant with drive-through	934	1,000 sq.ft. GFA	33.84	50%	16.92 trips/1,000 sq. ft.

\*Based on *Trip Generation, 8<sup>th</sup> Edition*, published by the Institute of Transportation Engineers (ITE). Net new trip rate reflects ITE trip rate less pass-by trips per the *ITE Trip Generation Handbook, 2<sup>nd</sup> Edition*.

\*\* Includes an assumed 34% pass-by rate, based on ITE Shopping Center

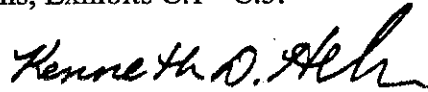
GLA=Gross Leasable Area

GFA= Gross Floor Area

H. The Applicant shall install a "ladder" style crosswalk pavement marking along with pedestrian crossing signs and supplemental downward arrow placards at the reconstructed SW Multnomah Boulevard pedestrian crossing. The condition is contingent upon the Applicant seeking and obtaining approval of all agencies with jurisdiction over the roadway and crosswalk.

**Approval** of an Adjustment to reduce the required landscaping area (33.130.225.B) from 15 to 14.4 percent for the construction of a new full-service grocery store, per the approved plans, Exhibits C.1 through C.3, subject to the following conditions:

- A. The requested Comprehensive Plan Map and Zoning Map Amendment Approval from Medium-Density Multi-Dwelling Residential (R1) to General Commercial (CG) for Tax Lot 4301 (8039 SW Capitol Hill Road) and Tax Lot 4302 must be approved and recorded.
- B. As part of the building permit application submittal, the following development-related conditions (C and D) must be noted on each of the four 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 11-103310 CP ZC AD."
- C. The plant material schedule on the landscape plan (Exhibit C.2) must be amended to show that at least 60 percent of the plants to be installed on the site will be native, selected from the Portland Plant List.
- D. The landscaping and related improvements including the tall wall, located near the western property line, walkways, plaza areas and trellises must be completed in substantial conformance with the approved site plan and landscape plans, Exhibits C.1 - C.3.



Kenneth D. Helm, Hearings Officer

October 20, 2011  
Date

**Application Determined Complete:** July 11, 2011  
**Report to Hearings Officer:** August 26, 2011  
**Recommendation Mailed:** October 21, 2011

**Conditions of Approval.** 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.**

**City Council Hearing.** The City Code requires the City Council to hold a public hearing on this case and you will have the opportunity to testify. The hearing will be scheduled by the City Auditor upon receipt of the Hearings Officer's Recommendation. You will be notified of the time and date of the hearing before City Council. If you wish to speak at the Council hearing, you are encouraged to submit written materials upon which your testimony will be based, to the City Auditor.

If you have any questions contact the Bureau of Development Services representative listed in this Recommendation (823-7700).

The decision of City Council, and any conditions of approval associated with it, is final. The decision may be appealed to the Oregon Land Use Board of Appeals (LUBA), as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that:

- an appellant before LUBA must have presented testimony (orally or in writing) as part of the local hearings process before the Hearings Officer and/or City Council; and
- a notice of intent to appeal be filed with LUBA within 21 days after City Council's decision becomes final.

Please contact LUBA at 1-503-373-1265 for further information on filing an appeal.

**Recording the final decision.**

If this land use review is approved, the final decision must be recorded with the Multnomah County Recorder. 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 approval.** Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

If the Zone Change or Comprehensive Plan Map Amendment approval also contains approval of other land use decisions, other than a Conditional Use Master Plan or Impact Mitigation Plan, those approvals expire three years from the date the final decision is rendered, unless a building permit has been issued, or the approved activity has begun.

**EXHIBITS**  
**NOT ATTACHED UNLESS INDICATED**

**A. Applicant's Submittal**

1. Response to CP/ZC approval criteria, Submitted February 28, 2011
  - a. Draft Covenant to Address "No-Net Housing Loss" Requirement
2. Response to Adjustment Review approval criteria, Submitted July 8, 2011
3. Letter from Mark Whitlow, Attorney, Explaining Proposal Should Include Specific Development Proposal, August 2, 2011
4. E-Mail from Diane Phillips, Safeway, Identifying Planned Public Safety Related Improvements, August 16, 2011
5. Transportation Impact Analysis, prepared by Kittelson & Associates, August 2011
6. Proposed Trip Cap Equivalency Table, prepared by Kittelson, e-mail, August 12, 2011
7. Capitol Hill Road Lane Configuration Analysis, memo prepared by Kittelson, August 25, 2011
8. Safeway Truck Routing Analysis, memo prepared by Kittelson, August 25, 2011
9. Preliminary Stormwater Report, Conveyance, Water Quality and Disposal, Group Mackenzie, submitted August 17, 2011
10. Geotechnical Engineering Study, GeoPacific, submitted January 26, 2011
11. Preliminary Plan Review Response (to Zoning Code standards), Letter from Wendell Mueller, Group Mackenzie, July 7, 2011
12. Response to BDS Completeness Review, Letter from Mark Whitlow, February 24, 2011
13. Redlined (Revised) Response to CP/ZC approval criteria, Submitted February 28, 2011
14. Original Response to CP/ZC approval criteria, Submitted January 12, 2011
15. Transportation Planning Rule Analysis, Kittelson & Associates, dated September 22, 2010
16. Preliminary Stormwater Report, Group Mackenzie, submitted January 12, 2011
17. Legal description and Titles for Tax Lots proposed for Comprehensive Plan and Zoning Map Amendment
18. Summary of Applicant's Contact/Outreach to Neighborhood Associations

**B. Zoning Map (attached)**

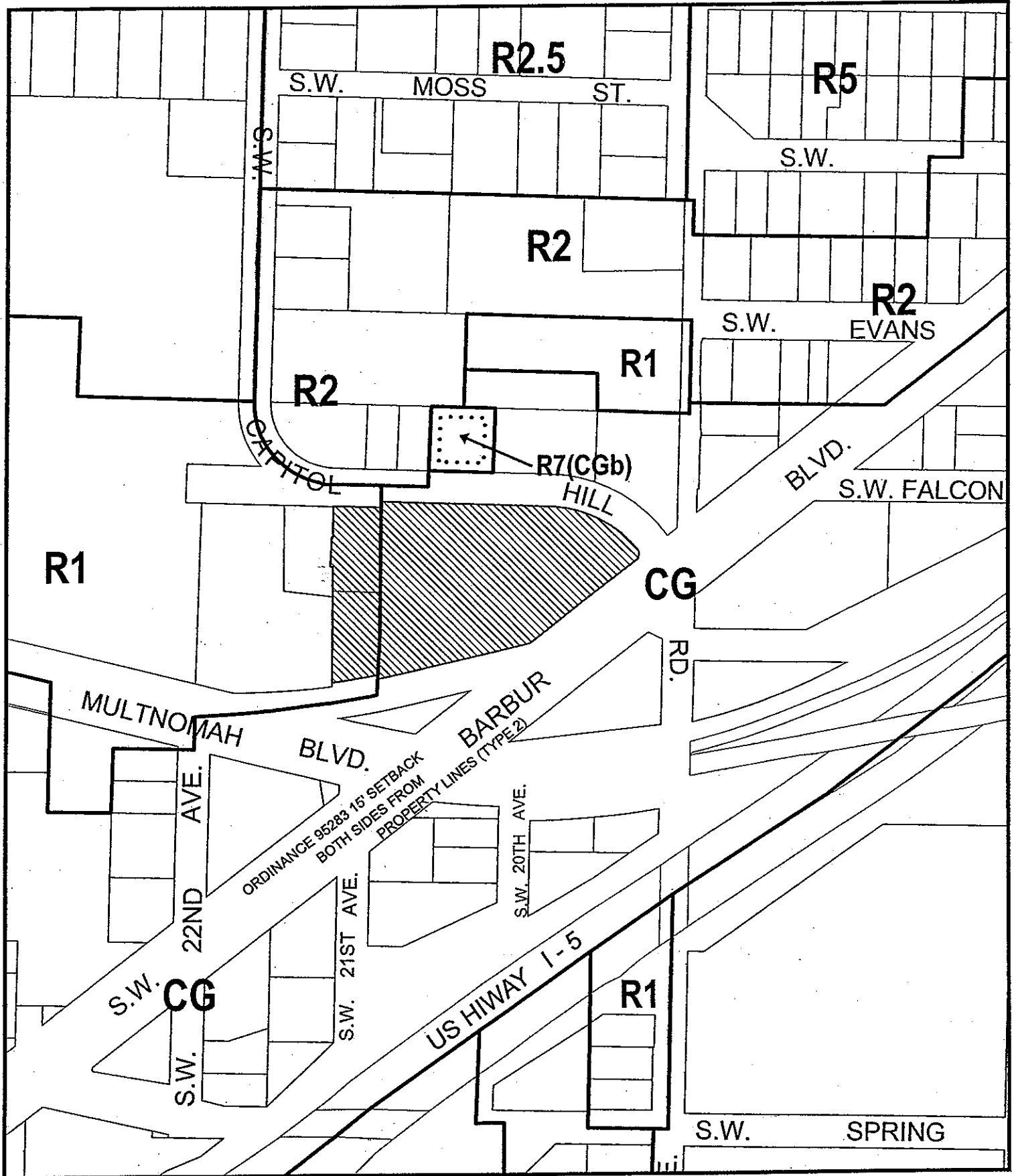
1. Existing Zoning
2. Proposed Zoning

**C. Plans and Drawings**

1. Proposed Site Plan (attached)
2. Proposed Landscaping Plan (attached)
3. Proposed Landscaping Details – Plan and Sections of Patio and Planter
4. Proposed Grading Plan
5. Proposed Utility Plan
6. Proposed Truck Turn Maneuver- In Bound
7. Proposed Truck Turn Maneuver- Out Bound
8. Proposed South and West Elevations
9. Proposed North and East Elevations
10. Proposed Southeast Elevation and Building Sections
11. Proposed Plan Elevations, Sections of Masonry Screen Wall

12. Survey – Existing Development
13. Plan Identifying Lots Proposed for Comprehensive Plan and Zoning Map Amendment
14. Proposed Frontage Improvements, Prepared by Kittelson & Associates
15. Early Assistance Review, Proposed Preliminary Plans Submitted January 31, 2011
  - a. Development Code Summary
  - b. Site Plan
  - c. Truck Turn Maneuver- In Bound
  - d. Truck Turn Maneuver- Out Bound
  - e. Grading Plan
  - f. Utility Plan
  - g. South and West Elevations
  - h. North and East Elevations
  - i. South-East Elevation
- D. Notification information
  1. Request for response
  2. Posting letter sent to Applicant
  3. Notice to be posted
  4. Applicant's statement certifying posting
  5. Mailing list
  6. Mailed notice
- E. Agency Responses
  1. BES
  2. PBOT Engineering and Development Review
  3. Water Bureau
  4. Fire Bureau
  5. Police Bureau
  6. Site Development Review Section of BDS
  7. TRACS Print-out "No Concerns" from Bureau of Parks, Forestry Division
  8. E-Mail from Ross Kevlin, ODOT, dated August 19, 2011
  9. Life Safety Review Section of BDS
  10. BES Response to Interested Persons Comments, e-mail from Elisabeth Reese Cadigan, August 22, 2011
- F. Letters
  1. Don Baack, July 21, 2011, E-Mail Raising Concerns About Truck Impacts
  2. Maria Cahill, August 18, 2011, E-Mail Raising Concerns About Stormwater Management and Safety
  3. Roger Averbek, August 19, 2011, E-Mail Sent to PBOT Staff, Concerns Raised About Bicycle Accommodations
  4. Keith Liden, August 21, 2011, Letter Raising Concerns/Policy Conflicts Regarding Proposed Pedestrian and Bicycle Improvements
- G. Other
  1. LUR Application
  2. LUR Application for Adjustment Review, submitted July 8, 2011
  3. Site History Research

4. BDS Incomplete Application Letter to Applicant, February 2, 2011
  5. BES Incomplete Application E-Mail to Applicant, March 4, 2011
  6. Preliminary Plan Review for Barbur Safeway Redevelopment, Memo from Staff, February 16, 2011
  7. Request for Completeness Review, January 13, 2011
  8. Pre-Application Conference Summary Report
  9. DLCD Notice of Proposed Amendment, mailed July 22, 2011
  10. Excerpt from Food Systems, Portland Plan Background Report, December 14, 2010
- H. Received in the Hearings Office
1. Hearing Notice - Frugoli, Sheila
  2. Staff Report and Recommendation to the Hearings Officer - Frugoli, Sheila
  3. 8/26/11 Letter to from Marianne Fitzgerald to Sheila Frugoli - Frugoli, Sheila
  4. 8/27/11 Email from Don Baack - Frugoli, Sheila
  5. 9/6/11 Memo - Recommended Corrections to Staff Report - Frugoli, Sheila
  6. 9/6/11 PBOT Memo to Sheila Frugoli - Haley, Robert
  7. 9/7/11 PBOT Memo to Sheila Frugoli - Haley, Robert
  8. 9/7/11 Letter from Eric Hovee to Mark Whitlow - Whitlow, Mark
  9. 9/7/11 Letter - Averbek, Roger
  10. PowerPoint presentation - Frugoli, Sheila
  11. 9/13/11 Memo - Frugoli, Sheila
  12. 9/19/11 Letter - Liden, Keith
  13. 9/21/11 Letter - Whitlow, Mark
    - a. 9/20/11 Letter from Chris Brehmer - Whitlow, Mark
    - b. 9/13/11 Memo from Sheila Frugoli - Whitlow, Mark
  14. 9/16/11 Fax - Ross, Moses - Submitted After Record Closed
  15. 9/28/11 Letter - Whitlow, Mark
  16. 10/5/11 Letter - Whitlow, Mark



# ZONING



Site



NORTH

File No. LU 11-103310 CP,ZC

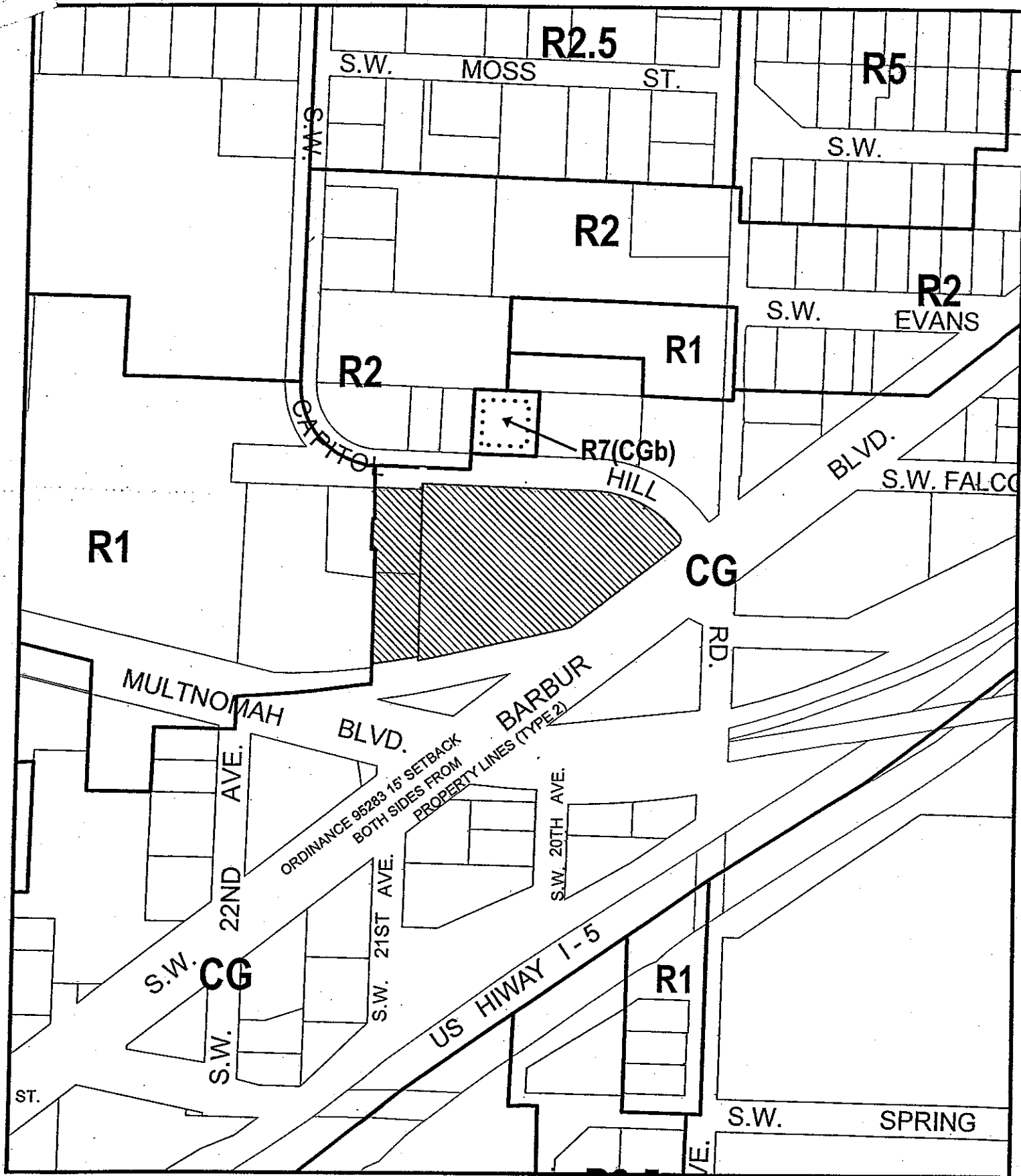
1/4 Section 3827

Scale 1 inch = 200 feet

State Id 1S1E21CB 4200

Exhibit B. 1 (Jan 13, 2011)





# ZONING PROPOSED

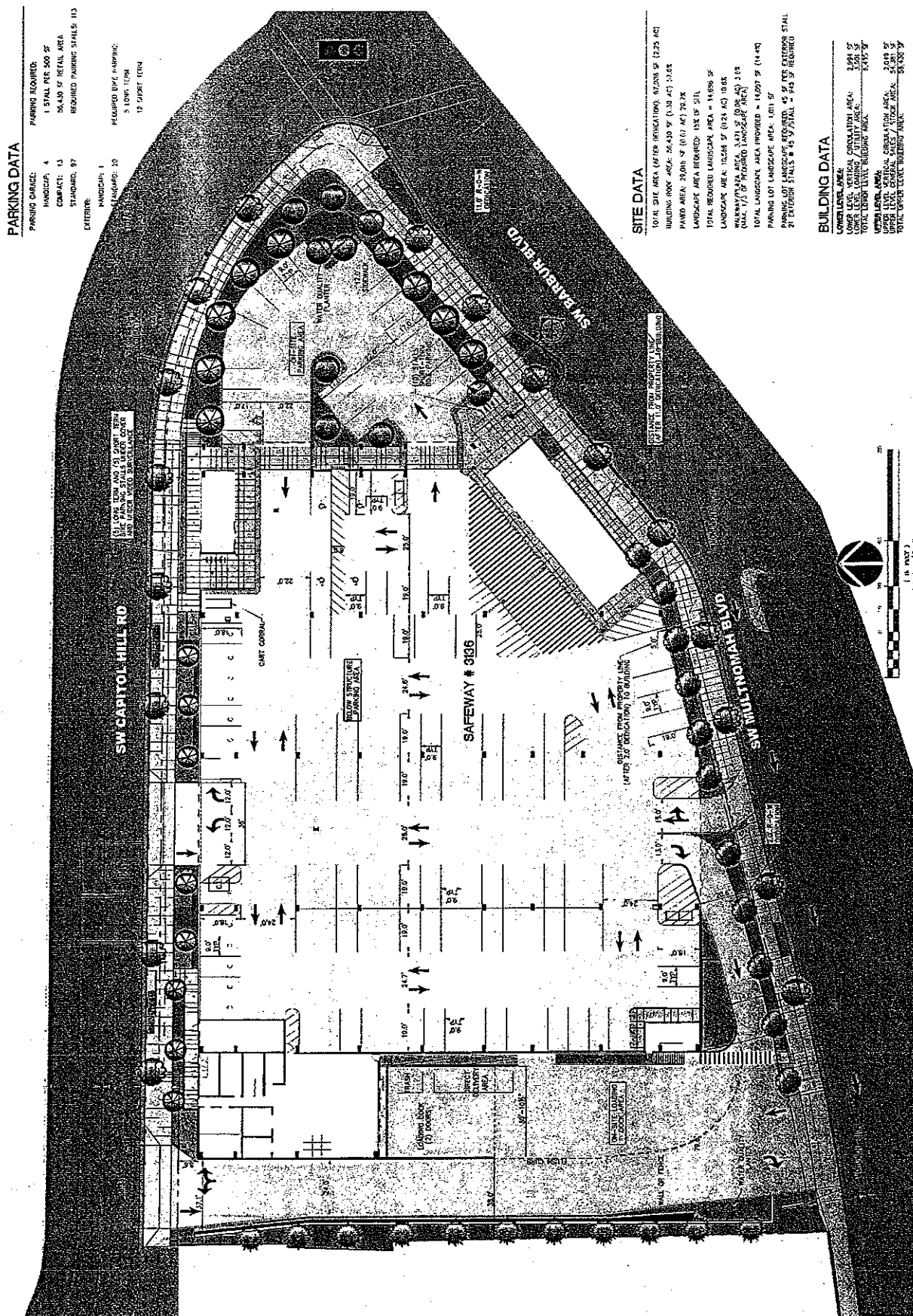


Site



NORTH

File No. LU 11-103310 CP,ZC  
 1/4 Section 3827  
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 State\_Id 1S1E21CB 4200  
 Exhibit B. 2 (Jan 13,2011)



### GENERAL NOTES