



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

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: October 27, 2009
To: Interested Person
From: Chris Caruso, Land Use Services
503-823-5747 / Christine.Caruso@ci.portland.or.us

**NOTICE OF A TYPE II DECISION ON A PROPOSAL IN
YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 09-157090 DZM WHOLE FOODS SIGN

GENERAL INFORMATION

Applicant: Richard Kellogg
EDS Signs Northwest
10965 SW Commerce Circle, Ste. A
Wilsonville, OR 97070-2376

Owner: Lakha Properties-Portland
500 108th Ave NE #2050
Bellevue, WA 98004

Site Address: 4301 NE SANDY BLVD

Legal Description: LOT A, BEVERLY CONDOMINIUMS
Tax Account No.: R077000020
State ID No.: 1N2E30CC 80001
Quarter Section: 2835

Neighborhood: Hollywood, contact Doug Hamilton at 503-249-5839.
Business District: Hollywood Boosters, contact Jan Tolman at 503-281-5497.
District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.
Plan District: Hollywood - Subdistrict B
Zoning: CSd – Storefront Commercial with design overlay
Case Type: DZM – Design Review with Modifications
Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:

Applicant seeks Design Review approval for the installation of one new projecting sign on the mixed-use building at 4301 NE Sandy Blvd in the Hollywood Plan District. The sign is comprised of the following elements:

- One 20' tall x 4' wide x 21" thick painted aluminum sign cabinet made of three shapes accented with multiple colors of neon banding;

- Located on the south wall of the building near the SW corner retail entrance, and above the ground floor transom windows and canopy;
- Retail tenant name comprised of individual letters outlined by neon on a painted aluminum background;
- Lower portion of sign is push-thru internally illuminated acrylic letters;
- Two horizontal tube steel support arms and brackets, painted to match the sign body, attach the sign to the building wall;
- No exposed conduit will be seen on the building exterior; and

Modifications being requested with this proposal include:

1. 32.32.030 Sign Code Additional Standards in All Zones – to allow a sign larger than 30 SF in area to project into the right-of-way. Proposed sign area is 80 SF.

Signs larger than 30 SF that project into the public right-of-way require design review with a modification.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The relevant criteria are:

- 33.825 Design Review
- 33.825.040 Modifications Thru Design review
- Community Design Guidelines

ANALYSIS

Site and Vicinity: The site is located in Subdistrict B of the Hollywood Plan District and is part of the Hollywood Commercial Core as outlined in the Hollywood and Sandy Plan. The site is also within the Hollywood Bright Lights District which runs along Sandy Blvd from NE 39th to NE 43rd Avenues and encourages larger lighted signs. The site has recently been redeveloped with a mixed-use building featuring retail on the ground floor, a parking garage in the rear, and residential units above. The Hollywood District is a neighborhood known for its architecturally diverse buildings, most notably the Hollywood Theatre, from which the neighborhood gets its name. Immediately north and one block east of the project site are distinctive neighborhoods of single family residences; south and west along Sandy Boulevard are predominately low to mid-scale retail and commercial spaces. While new developments and better utilization of land is encouraged, respecting important historical context is vital to ensuring that the character of the district is maintained. The site is bordered by Sandy Boulevard to the south, NE 43rd Avenue to the west, NE Tillamook Street to the north, and NE 44th Avenue to the east.

Sandy Blvd is designated an Enhanced Pedestrian Street, a Major City Traffic Street, a Major Transit Priority Street, a City Bikeway, and a Regional Main Street. NE 43rd Ave is designated a Major Traffic Street and a City Bikeway. NE Tillamook Street is classified as a Neighborhood Collector, a Transit Access Street, and a Local Service Bikeway. NE 44th Ave is a Local Service Bikeway. The site is located within the Hollywood Pedestrian District.

Zoning: The Storefront Commercial (CS) zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone allows a full range of retail, service and business uses with a local and regional market area. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

The Design “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review.

Land Use History: City records indicate prior land use reviews, including:

- LU 06-117297 DZM AD – approval of a mixed-use development
- LU 06-166299 DZ – approval of revisions to the previous decision

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **September 25, 2009**. The following Bureaus have responded with no issues or concerns:

- Water Bureau (see Exhibit E-1)
- Bureau of Transportation Engineering (see Exhibit E-2)
- Bureau of Environmental Services
- Fire Bureau
- Site Development Section of BDS

The Bureau of Parks, Forestry Division responded with the following comment. See Exhibit E-3: City code Title 20.40 requires a street tree review for any project that may cause any harm to existing street trees.

There is an existing street tree located close to the proposed sign. No harm must come to the tree during installation of the proposed sign.

Conditions of Approval:

- All existing street trees must be protected during construction. A written permit from the City Forester is required to remove, destroy, cut, break, or injure, any tree of any size in or upon any street, park, or public area as detailed in Title 20.40.090 D.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on September 25, 2009. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

I. Chapter 33.825 Design Review

Section 33.825.010 Purpose of Design Review

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

Section 33.825.055 Design Review Approval Criteria

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

Findings: The site is designated with design overlay zoning (d), therefore the proposal requires Design Review approval. Because of the site's location, the applicable design guidelines are the Community Design Guidelines.

Community Design Guidelines

The Community Design Guidelines consist of a set of guidelines for design and historic design cases in community planning areas outside of the Central City. These guidelines address the unique and special characteristics of the community plan area and the historic and conservation districts. The Community Design Guidelines focus on three general categories: **(P) Portland Personality**, which establishes Portland's urban design framework; **(E) Pedestrian Emphasis**, which states that Portland is a city for people as well as cars and other movement systems; and **(D) Project Design**, which assures that each development is sensitive to both Portland's urban design framework and the users of the city.

Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.

P1. Plan Area Character. Enhance the sense of place and identity by incorporating site and building design features that respond to the area's desired characteristics and traditions.

D6. Architectural Integrity. Respect the original character of buildings when making modifications that affect the exterior. Make additions compatible in scale, color, details, material proportion, and character with the existing building.

D7. Blending into the Neighborhood. Reduce the impact of new development on established neighborhoods by incorporating elements of nearby, quality buildings such as building details, massing, proportions, and materials.

D8. Interest, Quality, and Composition. All parts of a building should be interesting to view, of long lasting quality, and designed to form a cohesive composition.

Findings for P1, D6, D7 & D8: The Hollywood Plan District is characterized by a combination of historic buildings and new development that provide a quality pedestrian environment. The area is known for its lively arts and entertainment activities as well as for its bright lights area featuring neon signs and other lighted building accents. The signage proposed will provide additional interest and illumination at the edge of the designated Hollywood Bright Lights District, enlivening the pedestrian experience along this portion of NE Sandy Blvd.

The sign's location at the SE corner of the building, just above the wrap-around canopy, highlights the chamfered retail entrance. The multi-part cabinet with its distinctive top and bottom pieces, articulated letters, and neon accents fits within the overall façade composition by sitting in a planar area created by the wood siding that wraps this corner. The quality, long lasting metal material and articulated lettering and logos, bring a level of detail to the signage that compliments the articulation of the building design and adds to vocabulary of distinctive signs in the area. *These guidelines are therefore met.*

II. Section 33.825.040 Modifications That Will Better Meet Design Review Requirements

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the design review process. These modifications are done as part of design review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through design review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

Modification request to exceed 30 sq. ft. allowable sign area in the right-of-way. Signs projecting within the right-of-way are limited to 30 sq. ft. The proposed projecting sign will exceed this amount; therefore a modification is requested to increase the allowable sign area from 30 sq. ft. to 80 sq. ft.

A. Better meets design guidelines. The resulting development will better meet the applicable design guidelines; and

Findings: Allowing the sign to exceed the 30 sq. ft. limit within the right-of-way allows the sign to integrate with the canopy and further complement the architecture of the building by placing an appropriately-sized object within the larger frame created by the siding materials wrapping this particular corner. At a smaller scale, these features would not seem genuine. Additionally, the overall impact of the sign on the building is minimal due to the building's size and the location of the sign above the corner canopy. The sign's lighting, multiple pieces, and articulation reinforce the desired characteristics of the Hollywood Bright Lights District. *This criterion is therefore met.*

- B. Purpose of the standard.** On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

Findings: While the sign is approximately 80 sq. ft. in area, the overall impact is less due to the scale of the wall surface it is being placed on and its thin, vertical orientation. Therefore it will not have a dominant affect on the area but will instead continue the desired characteristics of the Hollywood Plan District. *This criterion is therefore met.*

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The design review process promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The new sign respects the proportions and design of the existing building, is made of quality long-lasting materials, and contributes to the desired characteristics of the Hollywood Plan District. The design proposed meets the applicable guidelines, and therefore warrants a approval.

ADMINISTRATIVE DECISION

Design Review Approval for the installation of one new projecting sign on the mixed-use building at 4301 NE Sandy Blvd. in the Hollywood Plan District. The sign is comprised of the following elements:

- One 20' tall x 4' wide x 21" thick painted aluminum sign cabinet made of three shapes accented with multiple colors of neon banding;
- Located on the south wall of the building near the SW corner retail entrance, and above the ground floor transom windows and canopy;
- Retail tenant name comprised of individual letters outlined by neon on a painted aluminum background;
- Lower portion of sign is push-thru internally illuminated acrylic letters;
- Two horizontal tube steel support arms and brackets, painted to match the sign body, attach the sign to the building wall; and
- No exposed conduit on the building exterior;

Approval of the following Modification:

1. 32.32.030 Sign Code Additional Standards in All Zones – to allow an 80 SF projecting sign which is larger than the allowed 30 SF;

Approved per the approved site plans, Exhibits C-1 through C-5 signed and dated October 22, 2009, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.5. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-157090 DZM. No field changes allowed."

Staff Planner: Chris Caruso

Decision rendered by:  **on October 22, 2009.**
By authority of the Director of the Bureau of Development Services

Decision mailed: October 27, 2009

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

Procedural Information. The application for this land use review was submitted on September 10, 2009, and was determined to be complete on September 23, 2009.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on September 10, 2009.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: January 23, 2010.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on November 10, 2009** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the

individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Design Commission is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

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

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **November 12, 2009 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

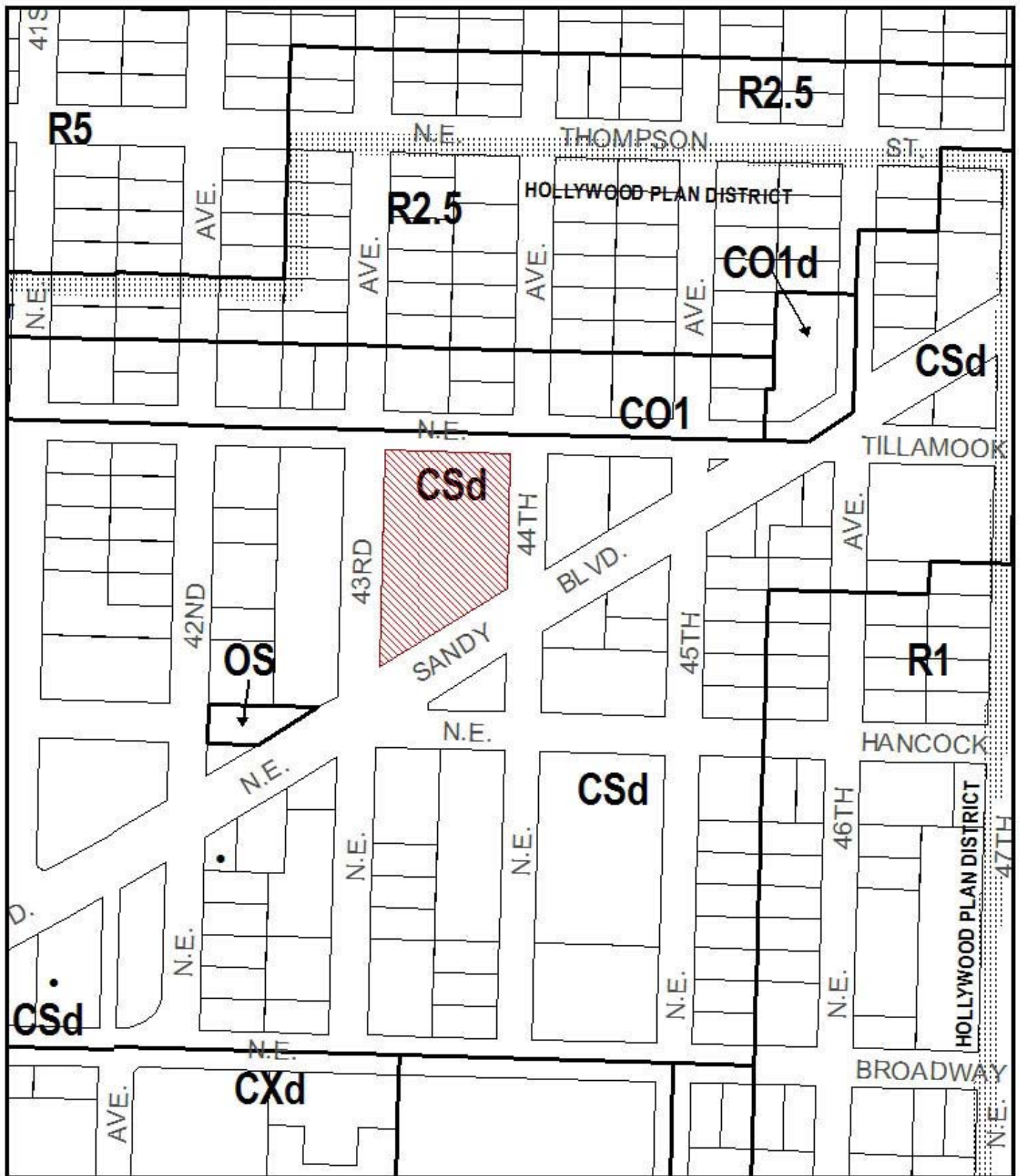
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A.
 - 1. Applicant's Statement
 - 2. Applicant's Photos
 - 3. Structural Calculations
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Sign Elevations (attached)
 - 3. Elevation
 - 4. Details
 - 5. Details
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Bureau of Parks, Forestry Division
- F. Correspondence: none received.
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

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



ZONING



Site

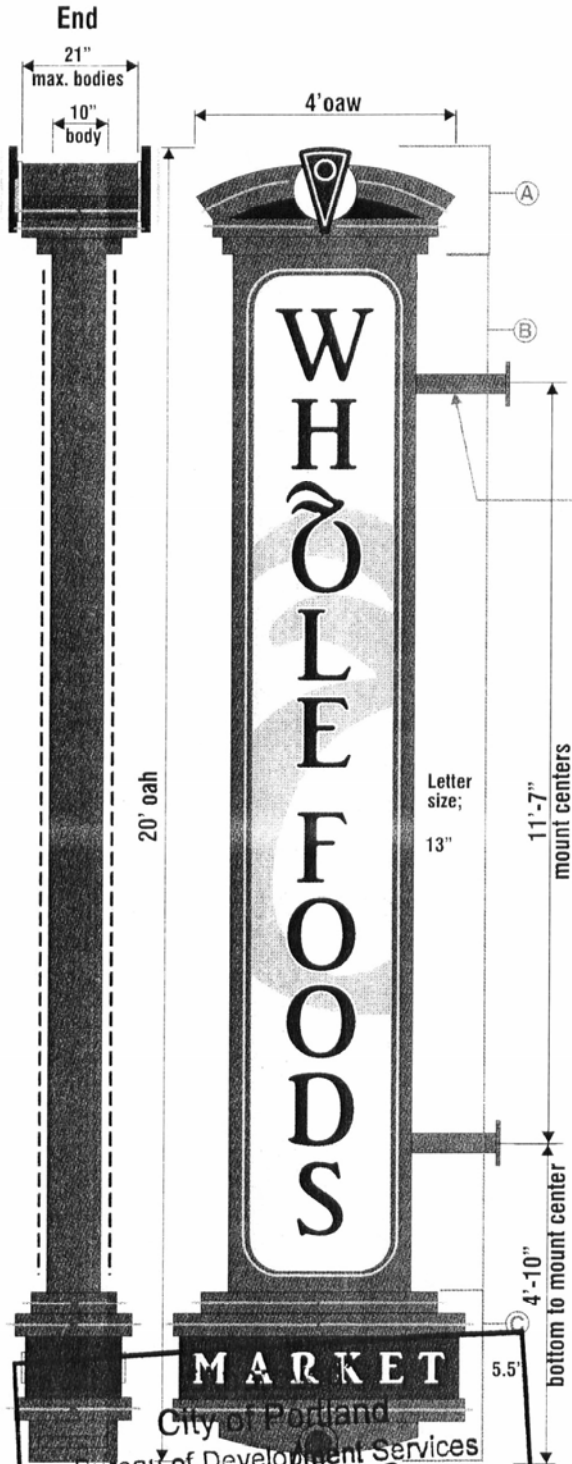


NORTH

This site lies within the:
HOLLYWOOD PLAN DISTRICT

File No. LU 09-157090 DZM
 1/4 Section 2835
 Scale 1 inch = 200 feet
 State_Id 1N2E30CC 80000
 Exhibit B (Sept 24, 2009)

Manufacture and install; One (1) double face vertical end mount display.



- (A) Top section - Alum. fabricated in elevations as seen in end view. Three paint colors as shown. Skeletal neon mounted as shown. Three tube colors. Solid state transformers in cabinet.
- (B) Mid section - Alum. fabricated cabinet. Four paint colors as shown. Skeletal neon mounted as accent border and letter outlines. Two tube colors. Solid state transformers in cabinet.
- (C) Bottom section - Alum. fabricated in elevations as seen in end view. Two paint colors as shown. Skeletal neon mounted as shown. Two tube colors. MARKET letters routed push through acrylic. Fluor illum. Solid state ballast & transformers in cabinet.

Sq. tube w/plate mount brackets (see detail)

EDS
ELECTRONIC DISPLAY SYSTEMS

503-582-8400
www.edsnw.com

10965 SW COMMERCE CIRCLE
POB 2376 WILSONVILLE, OR.
97070-2376 CCB 178522

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Colors on print may vary slightly from actual specified callouts for finished sign/s

17909

DESIGN NUMBER

CUSTOMER NAME

Whole Foods Sandy
FILE NAME

4-6-09

DATE
Rich Kellogg

SALESPERSON
LD

DRAWN BY

REVISIONS

9-8-09 LD Re-draw
per engineering review.

[] Approved
[] Approved with changes noted

CUSTOMER SIGNATURE

DATE

LANDLORD SIGNATURE

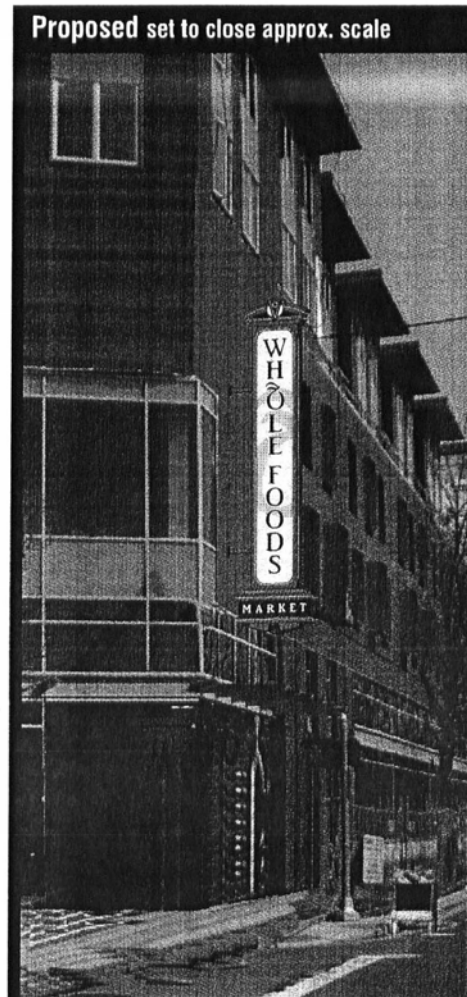
DATE

Business Name;

**WHOLE
FOODS
MARKET**

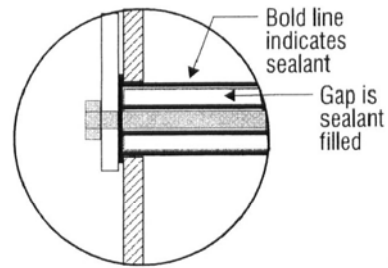
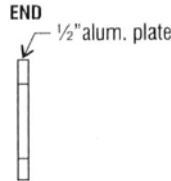
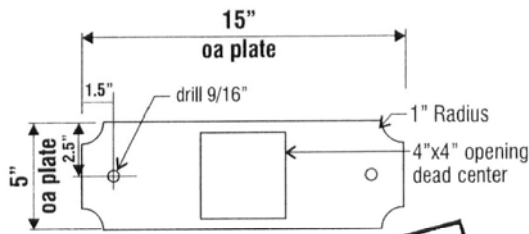
4301 NE Sandy Blvd.
Portland, OR 97213

sht. 1



City of Portland
Bureau of Development Services
Planner Sca 3/8"=1' *Chi*
Date 80sf oa 10/29/09
* This approval applies only to the reviews requested and is subject to all conditions of approval.
Additional zoning requirements may apply.

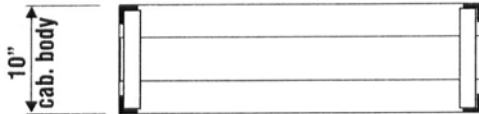
LU 09-157090 D2M
F.X.H.C.-2



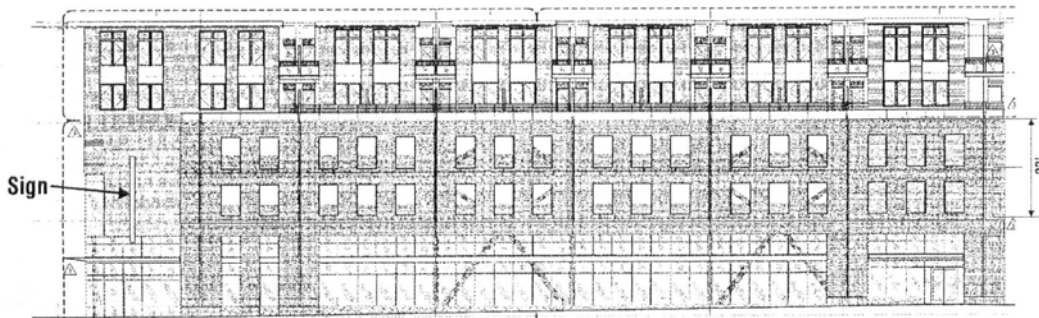
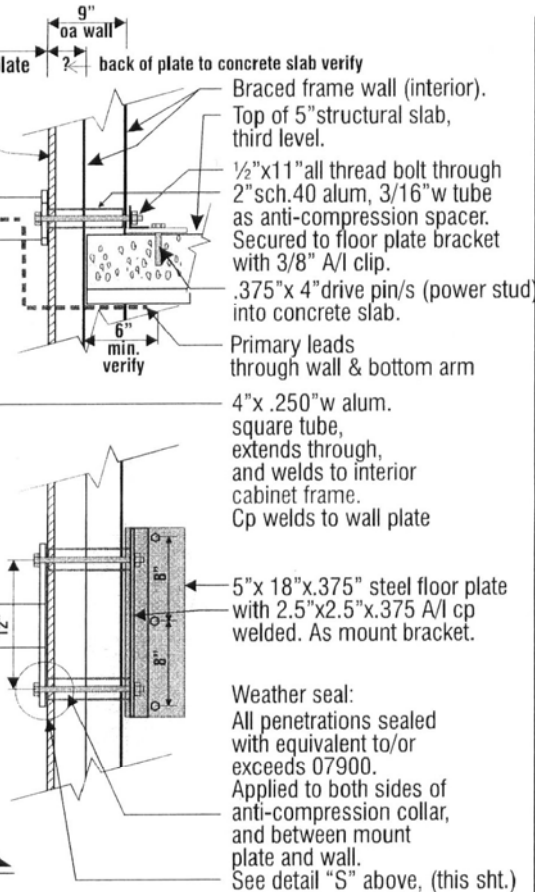
Detail "S" Weather Seal



Section Detail / Face
sca. 3/4" = 1'



Section/Sealant Detail / Plan View
sca. 3/4" = 1'
Attachment At Second Level



South Elev.
sca. 1" = 40'



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17909
DESIGN NUMBER

CUSTOMER NAME

Whole Foods Sandy
FILE NAME

4-6-09

DATE
Rich Kellogg

SALESPERSON
LD

DRAWN BY

REVISIONS
9-8-09 LD Re-draw per engineering review.

[] Approved
[] Approved with changes noted

CUSTOMER SIGNATURE

DATE

LANDLORD SIGNATURE

DATE

Business Name:

**WHOLE
FOODS
MARKET**

4301 NE Sandy Blvd.
Portland, OR 97213

sht. 3

LU 09-157090 D2M EXH. C-4