



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

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Portland, Oregon 97201
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www.portlandonline.com/bds

Date: August 30, 2010
To: Interested Person
From: Kara Fioravanti, Land Use Services
503-823-5892 / kfioravanti@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 10-112043 DZ NEW BUILDING PARAPET SIGN

GENERAL INFORMATION

Applicant: Broadstone Enso LLC, Owner
2415 E Camelback Rd #600 / Phoenix, AZ 85016

Representatives: Jeff Fetterman, Hardman Signs
4913 Weeping Willow Road / Houston, TX 77092

Steve Pfeiffer, Perkins Coie
1120 NW Couch Street, 10th Floor / Portland, OR 97209

Site Address: 1400 NW MARSHALL STREET
Legal Description: W 90' OF LOT 2 BLOCK 183 LOT 3-8 BLOCK 183, COUCHS ADD
Tax Account No.: R180217080 **State ID No.:** 1N1E33AA 03900 **Quarter Section:** 2928
Neighborhood: Pearl District, contact Patricia Gardner at 503-228-3273.
Business District: Pearl District Business Assoc., contact Adele Nofield at 503-223-0070.
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.
Plan District: Central City - River District
Zoning: EXd, Central Employment with design overlay
Case Type: DZ, Design Review
Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal: The applicant seeks design review approval to locate a new 13'-10" x 3'-5" halo illuminated, individual channel letter metal sign at the West elevation of the existing building. The individual metal letters are 4" thick and the sign stands off the building wall 2". The sign will be located at the top of the building near the corner of NW 15th and Lovejoy. It is centered above a recessed wood/window element.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are: Central City Fundamental Design Guidelines and the River District Design Guidelines

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. This application was submitted on February 17, 2010 and determined to be complete on March 16, 2010.

ANALYSIS

Site and Vicinity: The subject site is located on the block bounded by NW Lovejoy Street, NW 14th Avenue, NW Marshall Street, and NW 15th Avenue in the River Subdistrict of the Central City Plan District. The subject building was approved through Design Review in 2007 (LU 07-164295 DZM), and construction was recently completed. Previously, there was a warehouse building located on the site. It was demolished to accommodate the new building. The block also contains a one-story office building constructed in 1931.

Interstate 405 abuts the site to the west. The Marshall Wells Lofts building is located directly south. On the easterly abutting block, there is a new mixed-use building that contains a Safeway grocery store on the ground floor and parking and office space at the upper floors. The block directly west of the subject site contains the new Machine Works building (ground-floor retail and parking and office space at the upper floors), a 1908 four-story brick light industrial-type building, and a 1949 two-story warehouse-type building that contains office space.

In regard to the surrounding transportation environment, Portland's Transportation System Plan (TSP) classifies NW Lovejoy Street as a Traffic Access Street, Transit Access Street, Community Main Street, City Bikeway, and City Walkway. NW Marshall Street is classified as a Local Service Bikeway. NW 14th Avenue is designated as a Major City Traffic Street, Community Corridor, and City Bikeway. NW 15th Avenue is a Local Service Bikeway. The subject site is located in the Northwest Triangle Pedestrian District, which is a TSP-designated pedestrian district. There are stops for TriMet bus route #77 and the eastbound Portland Streetcar nearby, at NW Lovejoy at 13th Avenue.

Zoning: The **Central Employment (EX) zone** allows mixed uses and is intended for areas in the center of the City that have predominantly industrial-type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area.

The **"d" overlay zone** 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 that prior land use reviews include the following:

1. LU 09-129628 DZ (2009): Design Review approved rooftop mechanical equipment.
2. LU 07-164295 DZM (2007): Design Review approval with conditions for the Enso apartment building, an 180,000-square-foot mixed-use apartment building, consisting of 14,000 square feet of ground-floor retail space, 152 apartment units at the upper floors, and 163 parking stalls below grade. Approval was also granted for three Modifications.

3. VZ 256-68 (1968): Approval to have more than one identification sign in a Sign Control ("S") zone, to allow a painted wall sign 41'-0"x2'-0" in size on the west wall of the existing building.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **March 29, 2010**. The following Bureaus have responded with no issues or concerns: BDS Fire Life Safety, BDS Site Development, Fire, Bureau of Environmental Services, Bureau of Transportation Engineering, Water Bureau, and Urban Forestry.

Neighborhood Review: A Notice of Proposal in Your Neighborhood for a 34.99 SF sign was mailed on March 29, 2010. After the initial mailing the applicant requested a larger sign to be reviewed, a 47.27 SF sign. The Revised Notice of Proposal in Your Neighborhood was mailed on May 21, 2010. One written response has been received. The response notes the following: the neighborhood has very few signs on its buildings, including signs at the tops of buildings. The response also asked the following questions:

- If this proposal is accepted will this set precedent for existing or future projects to emulate and exceed with larger and more creative signs per building?
- Are the existing signs allowed?
- Will the new sign be illuminated 24 hours/day?
- What will be the lumens allowed?
- Will it be a hazard or distraction to car or truck traffic on 405?
- Will it be a distraction to drivers and pedestrians crossing at NW 15th and Lovejoy?
- Will the new sign be animated?
- If new sign is animated are there any rules for flashing or sequential attractions?
- What color or combination of light is allowed?
- If the new illuminated sign is permitted, how long is the permit good for and what are the conditions to keep that permit?

Staff response: It is true that the neighborhood has limited signage and very few signs at the tops of buildings. Design Review has successfully helped keep skyline sign clutter to a very minimal impact. Therefore, this decision significantly limits, through a condition of approval, the allowance for signs above the 2nd floor window sill line (see below). This approval should continue to help any possible future signs to be restrained and subtle, if allowed at all – Design Review considers each application against the site's unique characteristics and the neighborhood's identity and it may be found in future applications that a sign at the top of a building, based on the relevant design guidelines, is not appropriate and therefore not approvable.

According to the applicant, the 2 entry signs at the NE ground level corner are less than 32 SF and are therefore allowed without Design Review.

The other 3 banner signs at the top of the building are subject to the "Temporary Signs" section of the Sign Code (see 32.32.030 K.3.c.) The CX zone regulations apply per 32.32.020 C. Temporary signs for the CX zone are allowed without Design Review as follows: "up to 3 banners no larger than 32 SF in size are allowed per site. Only one of these banners may be hung on each building wall. Additional banners, or banners larger than 32 SF in size, must meet the following standards: (1) in no case may a site have more than 4 temporary banners, (2) up to 1 temporary banner larger than 32 SF in size is allowed per site. This banner may be no larger than 50 SF in size, (3) banners larger than 32 SF in size, or in excess of 3 banners, may be hung for up to 180 days per calendar year, (4) banners that do not meet the regulations of this subparagraph, must meet the standards for permanent signs." If you feel the existing banner signs do not meet these temporary sign allowances, you may report a potential violation by calling 503.823.2633 or submitting online report at <http://www.portlandonline.com/bds/index.cfm?c=34180>

The new signs will be illuminated at night. The proposed type of illumination is called "halo illumination", where the lighting happens behind the channel letters and is reflected off of the building wall. It is a very subtle way of illumination and one of the many design reasons this particular sign is approved. This subtle lighting technology should not be distracting to motorists.

The Oregon Department of Transportation reviewed the sign and did not have concerns or regulations to impose.

The sign is not animated. And, it is not permitted to be animated now or in the future.

As long as the sign remains the approved size, in the approved location, and maintains the current technology (halo illumination) and materials (individual metal letters) it can remain as long as the building owner desires.

ZONING CODE APPROVAL CRITERIA

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 Central City Fundamental Design Guidelines and River District Guidelines.

River District Design Guidelines and Central City Fundamental Design Guidelines

The River District is a remarkable place within the region. The area is rich with special and diverse qualities that are characteristic of Portland. Further, the River District accommodates a significant portion of the region's population growth. This area emphasizes the joy of the river, connections to it, and creates a strong sense of community. The goals frame the urban design direction for Central City and River District development.

The Central City Fundamental Design Guidelines and the River District Design Guidelines focus on four general categories. **(A) Portland Personality**, addresses design issues and elements that reinforce and enhance Portland's character. **(B) Pedestrian Emphasis**, addresses design issues and elements that contribute to a successful pedestrian environment. **(C) Project Design**, addresses specific building characteristics and their relationships to the public environment. **(D) Special Areas**, provides design guidelines for the four special areas of the Central City.

River District Design Goals

1. Extend the river into the community to develop a functional and symbolic relationship with the Willamette River.
2. Create a community of distinct neighborhoods that accommodates a significant part of the region's residential growth.
3. Enhance the District's character and livability by fostering attractive design and activities that give comfort, convenience, safety and pleasure to all its residents and visitors.
4. Strengthen connections within River District, and to adjacent areas.

Central City Plan Design Goals

1. Encourage urban design excellence in the Central City;
2. Integrate urban design and preservation of our heritage into the development process;
3. Enhance the character of the Central City's districts;

4. Promote the development of diversity and areas of special character within the Central City;
5. Establish an urban design relationship between the Central City's districts and the Central City as a whole;
6. Provide for a pleasant, rich and diverse pedestrian experience for pedestrians;
7. Provide for the humanization of the Central City through promotion of the arts;
8. Assist in creating a 24-hour Central City which is safe, humane and prosperous;
9. Ensure that new development is at a human scale and that it relates to the scale and desired character of its setting and the Central City as a whole.

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

A5. Enhance, Embellish and Identify Areas.

A5-1. Reinforce Special Areas.

A5-1-1. Reinforce the Identity of the Pearl District Neighborhood.

C2. Promote Quality and Permanence in Development.

C3. Respect Architectural Integrity.

C5. Design for Coherency.

C13. Integrate Signs.

Findings: The Pearl District is a neighborhood where signage is restrained and “skyline” signs are intentionally and successfully limited. It is a pedestrian-oriented district where signs are appropriately located near the ground level to reinforce its identity. And, building tops are typically well-designed and crafted and, as such, adequately address the desire for a unique and vibrant skyline without the clutter of signage. This subject sign was considered and is approved because it will not face into the district and, therefore, will not distract, clutter or impact views. Moreover, the type of illumination proposed is halo-illumination, which is a successful subtle technology; halo-illumination is appropriate so the sign will not overwhelm the elevation, distract freeway motorists, or impact views from the west. The sign size is modest on an elevation of this size for the same reasons.

The reasons stated above are based on the notion of one small, discreet sign at the top of the building not facing the neighborhood. To support this notion and further limit the potential for additional negative impact on the building elevations, freeway, neighborhood and views a condition of approval will limit signage as follows: *“Additional permanent signs subject to Design Review per 33.420.041 and above the sill line of the 2nd floor windows on all elevations are not allowed. If the subject sign is removed in the future, regulations current at the time of any future application would apply.”*

Considering the architecture of the building, this proposal is consistent and appropriate. The proposed metal material of the sign and its color support the main materials of the elevations. The sign's location is not interfering with the complexity of the building wall elements and, therefore, appropriately located at the top of the building centered above a recessed wood/window element. The success of this sign is also apparent in its light touch on this complex building – the letters are individual letters to allow a reading of the building wall beyond, are only 4” deep for a modest profile, and stand off the building only 2” so that it is not an overwhelming element hanging heavy off the wall. To further this light touch and ensure the sign will be an integrated building element, a condition of approval will address the lighting attachment: *“The conduit providing power will not go beyond the 13’-10” x 3’-5” sign dimensions.”*

With the 2 conditions of approval included and described above, these guidelines are 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 proposed sign is architecturally sensitive to the building. Regarding its neighborhood compatibility, this Design Review strongly considered the context - the neighborhood has limited signage and very few signs at the tops of buildings. Design Review has successfully helped keep skyline sign clutter to a very minimal impact. Therefore, this decision significantly limits, through a condition of approval, the allowance for signs above the 2nd floor window sill line on all elevations. This decision should continue to help any possible future signs in the district to be restrained and subtle, if allowed at all – Design Review considers each application against the site's unique characteristics and the neighborhood's identity and it may be found in future applications that a sign at the top of a building, based on the relevant design guidelines, is not appropriate and therefore not approvable.

ADMINISTRATIVE DECISION

Approval of design review in the River Sub district of the Central City Plan District to locate a new 13'-10" x 3'-5" halo illuminated, individual channel letter metal sign at the West elevation of the existing building. The individual metal letters are 4" thick and the sign stands off the building wall 2". The sign will be located at the top of the building near the corner of NW 15th and Lovejoy. It is centered above a recessed wood/window element

Approval per the approved plans, Exhibit C-1 through C-2, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (A – D) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE- Case File LU 10-112043 DZ. All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Additional permanent signs subject to Design Review per 33.420.041 and above the sill line of the 2nd floor windows on all elevations are not allowed. If the subject sign is removed in the future, regulations current at the time of any future application would apply.
- C. The conduit providing power will not go beyond the 13'-10" x 3'-5" sign dimensions.
- D. No field changes allowed.

Staff Planner: Kara Fioravanti

Decision rendered by:  **on August 26, 2010**

By authority of the Director of the Bureau of Development Services

Decision mailed: August 30, 2010

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

Procedural Information. The application for this land use review was submitted on February 17, 2010, and was determined to be complete on March 16, 2010.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on February 17, 2010.

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 extend the 120-day review period (see Exhibit A.4). Unless further extended by the applicant, **the 120 days will expire on: October 15, 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 September 13, 2010** 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 **September 14, 2010 – (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.

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

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

EXHIBITS

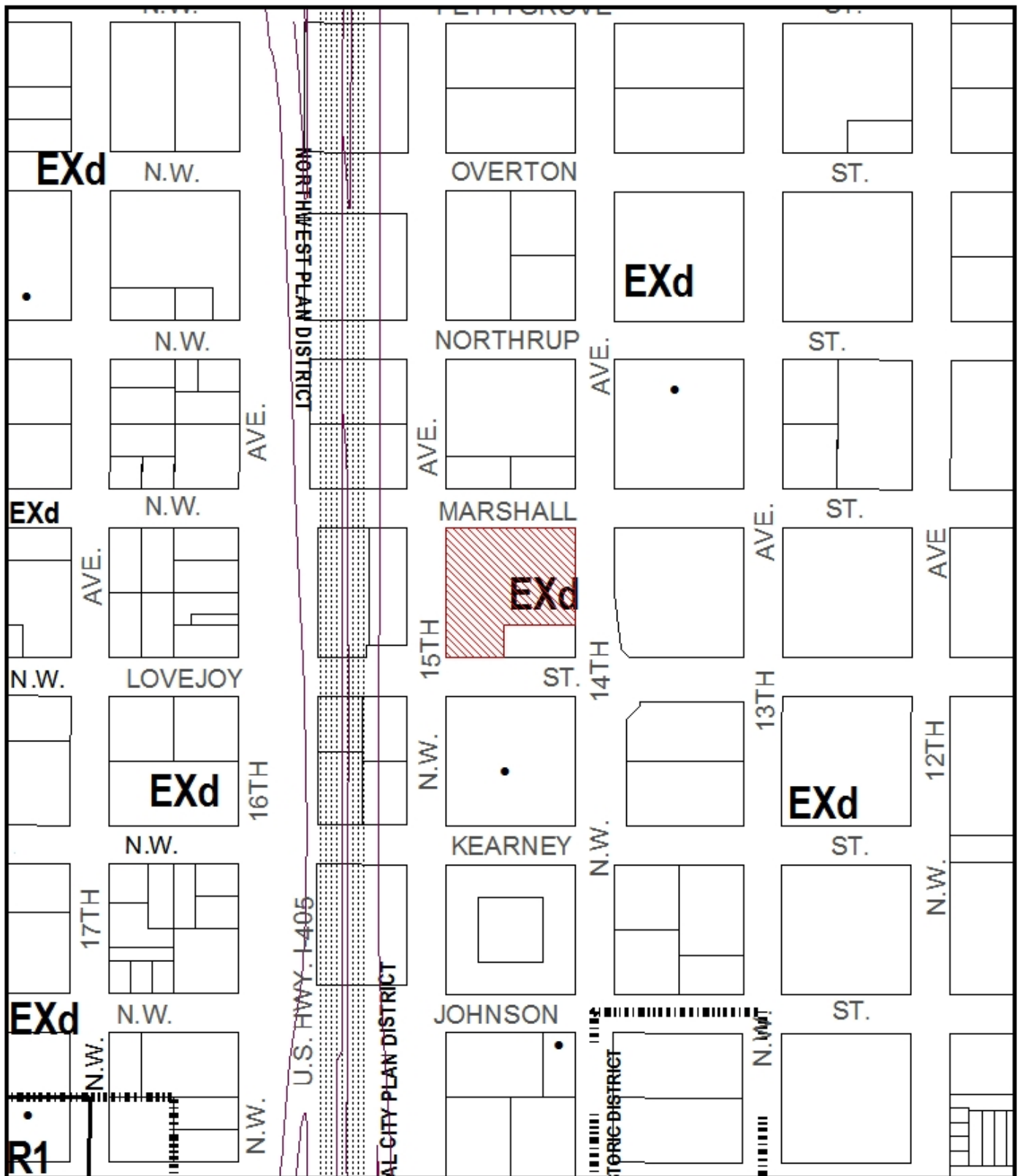
NOT ATTACHED UNLESS INDICATED

A. Applicant's submittals

1. Drawings for a 68 SF parapet sign at the West elevation
2. Original Narrative
3. Drawings for a 34.99 SF parapet sign at the West elevation
4. 5-18-10 memo re: 120-day request

5. 6-22-10, memo re: revised narrative
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Sign elevation, section and partial building elevation (attached)
- D. Notification information:
 1. Mailing list, 3-29-10 notice for 34.99 SF sign
 2. Mailed notice, 3-29-10 notice for 34.99 SF sign
 3. Mailed notice, 5-21-10 notice for 47.27 SF sign
 4. Mailing list, 5-21-10 notice for 47.27 SF sign
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
- F. Correspondence:
 1. Ostrom, 6-1-10, concerns raised and clarifications on the sign requested
- G. Other:
 1. Original LU Application
 2. Site History Research
 3. Request from applicant to revise original 68 SF sign with a 34.99 SF sign

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



Historic Landmark



NORTH

This site lies within the:
CENTRAL CITY PLAN DISTRICT

File No. LU 10-112043 DZ
1/4 Section 2928
Scale 1 inch = 200 feet
State_Id 1N1E33AA 3900
Exhibit B (Feb 18,2010)

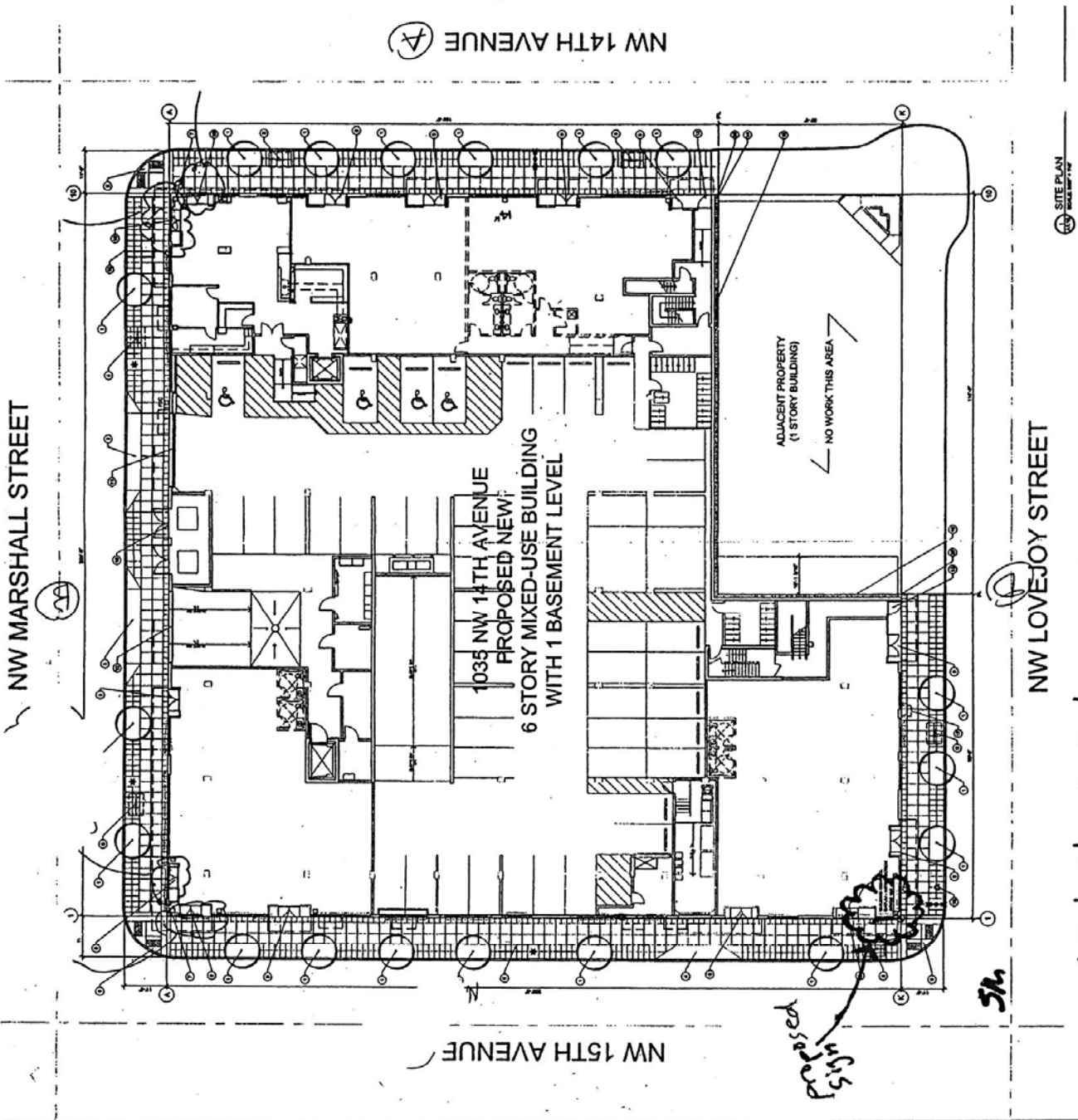


Exhibit C.1

Approved
City of Portland
 Bureau of Development Services

Planner [Signature]

Date 8-26-10

* This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.

LU10-112043 DZ


Hardman Signs
 Ph: 713-957-2324 Fax: 713-957-2119

BILLING NAME:
ALLIANCE COMMUNITIES

JOB NUMBER:
292577

SIGN TYPE:
D

SCALE:
1" = 1' 0"

JOB NAME:
BROADSTONE ENSO

PRENAME:
BROADSTONE ENSO 292577

(QTY. 1) SET OF CHANNEL LETTERS



(QTY. 1) SET OF 4" DEEP HALO LIT CHANNEL LETTERS, METAL
 *LETTERS: PAINTED (COLOR TBD)
 *LOGO MODULE: PAINTED (COLOR TBD)

Approved
 City of Portland
 Bureau of Development Services
 Planner _____
 Date 8.26.10

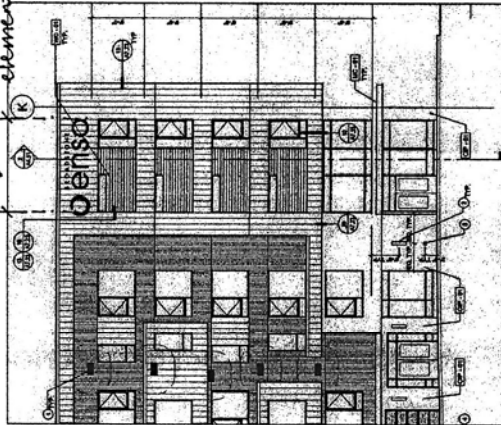
*This permit applies only to the
 use of the sign as shown on the plans.

COLORS USED

-  3. METALLIC COLOR TBD
-  4. ORANGE COLOR TBD

sign centered above
 this window
 element below

note: this partial
 elevation is not
 to scale & does
 not show a sign
 at the approved
 dimensions. the
 sign approved is
 smaller than shown
 here in this partial
 elevation. the
 constructed sign
 must match the
 13'-10" x 3'-5" dimension.



Partial West Elevation

ERh C.2