

City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

Charlie Hales, Mayor Paul L. Scarlett, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

Date: April 12, 2013 **To:** Interested Person

From: Sylvia Cate, Land Use Services

503-823-7771 / Sylvia.Cate@portlandoregon.gov

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

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in the version located on the BDS website http://www.portlandonline.com/bds/index.cfm?c=46429. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 13-120560 AD GENERAL INFORMATION

Owner: Glenhaven LLC

PO Box 13998 / Portland, OR 97213-0998

Applicant: Chris Sanberg, Director of Facilities / Banfield Pet Hospital

8000 NE Tillamook St / Portland, OR 97213

Representative: Joseph Voboril, Attorney / Tonkon Torp LLP

888 SW Fifth Ave Suite 1600 / Portland, OR 97204

Site Address: 8000 NE TILLAMOOK ST

Legal Description: BLOCK 52 INC ALL VAC ST E OF & ADJ BLOCK 53 EXC PT IN ST,

JONESMORE

Tax Account No.: R433607740, R433607740, R433607740

State ID No.: 1N2E29DD 00100, 1N2E29DD 00100, 1N2E29DD 00100

Quarter Section: 2838

Neighborhood: Madison South, contact Frank Walsh at 503-261-8090.

Business District: Portland International District BA, Thomas Wright at 503-249-3926. **District Coalition:** Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.

Zoning: CG, General Commercial

Case Type: AD, Adjustment

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

Committee.

Proposal:

In 2004, the Banfield Pet Hospital received a Land Use Review approval via LU 04-019454 CP ZC AD to construct a headquarters office with associated parking and a public dog park. That land use approval changed the zoning on the site from R5, Residential 5,000 to CG, General Commercial. The application also approved three adjustments: to increase the maximum transit street setback to allow the building to be located on the western portion of the site so that the dog park could be placed along the NE 82nd Avenue frontage; to waive the Main Entrance Transit setback for the same site configuration; and to allow the required perimeter

parking lot landscaping to be placed along the eastern edge of the dog park instead of along the edge of the paved parking area.

Subsequent to the approval, the Banfield Pet Hospital Headquarters Office was constructed, comprised of 2 stories and with 220 parking spaces under the building and an additional 198 parking spaces on a surface parking lot between the dog park and the office building.

Since the headquarters office opened, the business needs have grown steadily to the point that the Banfield Pet Hospital is requesting an Adjustment to expand the existing surface parking lot and remove the western half of the dog park. The site is allowed a total 513 parking spaces, but only 418 are on site. The applicant notes that this expansion should significantly reduce any spill over parking into the neighborhood. Because the dog park was approved as mitigation for the Adjustment to place the required parking lot perimeter landscaping along the eastern edge of the dog park, and the dog park open grassy area was additional mitigation for that Adjustment, the applicant requests an Adjustment approval to reduce the size of the dog park and provide additional allowed parking spaces on site. Attached to this Notice is a zoning map and site plans depicting the proposal.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The site is a large flat parcel, 3.6 acres in size, developed with a two story office building built in 2005 [World Corporate Headquarters Office for Banfield Pet] with one level of structured parking under the building. A surface parking lot separates the office building from a dog park that is open to the public and runs along the length of the SE 82nd Avenue frontage of the site. The current dog park has a water feature in the center, with quadrants surrounding the fountain that provide separate spaces for larger and smaller dogs. The dog park is fenced and has double gates at the entry/exit point to prevent a dog from escaping. A muddy dog wash room and restrooms are also provided. The dog park is an amenity to the public that Banfield Pet Hospital wanted to provide as part of their original development plan. The dog park and its location was approved via an Adjustment to allow the required perimeter parking lot landscaping to be placed along the eastern edge of the dog park instead of the eastern edge of the parking lot. The eastern edge of the dog park where the landscaping is proposed is greater than 25 feet from the edge of the paved parking area.

The surrounding vicinity adjacent to the site consists of residential development and uses to the north, west and south and commercial uses and development across NE 82nd from the site.

Zoning: The site is zoned CG, General Commercial. The General Commercial (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 with 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 that prior land use reviews include Case File numbers PC 5782 C, CU 69-65, CU 68-70, CU 6-77 and CU 26-90. All of these cases were conditional use reviews for school district operations at this site, including an expansion of parking, use of the building as administrative offices, and most recently a 1990 approval to remodel and

convert the Glenhaven School facility to a vocational high school use. None of these prior land use reviews are pertinent to the current request.

The relevant prior land use review is case file LU 04-019454 CP ZC AD, which approved a Comprehensive Plan Map Amendment, Zoning Map amendment and three concurrent Adjustments to allow the subject site be rezoned to CG, General Commercial and allow the development of the Banfield Pet Hospital World Headquarters Office as it is concurrently configured.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **March 7, 2013**. The following Bureaus have responded with no issues or concerns:

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 7, 2013. One written response has been received from the Neighborhood Association in response to the proposal. The letter states objections to the proposal and notes that reducing the size of the dog park would have a negative impact on the appearance of the site and its relation to $82^{\rm nd}$ and the adjacent streets in the neighborhood. The letter also acknowledges the importance of containing overflow parking into the residential area, and suggests that the parking needs could be mitigated by constructing a parking deck over the existing parking lot or some other solution that does not have a negative impact on the streetscape or the neighborhood.

Staff Note: Concerns raised in the letter are addressed below, in this decision.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (Adjustments)

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

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The proposal to expand the existing surface parking lot by removing a portion of the dog park triggers an Adjustment because the approved site plan for the existing development is proposed to be altered. The large grassy area of the dog park was approved [LU 04-019454 CP ZC AD] to be located along the frontage of NE 82nd in order to provide a dog park open to the public that was easy to access and provided visual relief from the otherwise harsh hardscaped that is more typical of the pedestrian experience along 82nd Avenue in this area. The open grassy area of the dog park was found to provide additional visual buffering and softening of the

surface parking lot as well as an enhanced pedestrian experience along the sites frontage.

The original findings, from LU 04-019454 CP ZC AD, follow:

33.266.130 G 2 c [2], Perimeter Landscaping for surface parking lots: The parking area layout standards are intended to promote safe circulation within the parking area, provide for the effective management of stormwater runoff from vehicle areas, and provide for convenient entry and exit of vehicles. The setback and landscaping standards:

- *Improve and soften the appearance of parking areas;*
- Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones;
- *Direct traffic in parking areas;*
- Shade and cool parking areas;
- Reduce the amount and rate of stormwater runoff from vehicle areas;
- Reduce pollution and temperature of stormwater runoff from vehicle areas; and
- Decrease airborne and waterborne pollution.

The request to relocate the required parking lot perimeter landscaping along the eastern edge of the parking lot to the dog park's edge along the NE 82nd Avenue frontage will still provide a softer appearance and greenery screening of the surface parking lot. The applicant notes that the edge of the parking lot will be landscaped with interior landscaping and will also abut the dog park, which will provide attractive landscaping and improve the appearance of the parking lot. Stormwater management on site will be facilitated by the landscaping and the dog park. Traffic will be directed by the interior landscaping islands, which will also provide shade, cooling, and stormwater management.

The current request proposes to remove a portion of the existing dog park in order to install additional parking spaces on site to address spill over parking onto adjacent residential streets. The existing dog park comprises an area approximately 150 feet deep by 515 feet long, or 1.8 acres. Reducing the area of the dog park to 1.04 acres, or an area approximately 88 feet deep by the 515 foot long frontage along NE 82nd Avenue will continue to provide an improved and softer appearance of the surface parking area and the proposed expansion of the parking area. The parking layout regulations require that parking areas have 5 feet of landscaping along the perimeter of the parking, or within 25 feet of the perimeter of the parking area. The proposed reduction of the dog park will provide an 88-foot deep open grassy area between the expanded parking area and the streetscape of NE 82nd Avenue.

Further, the existing 5-foot deep landscaped area of shrubbery between the public sidewalk and the decorative wrought iron fencing around the dog park will continue to provide a pleasant appearance that is a significant visual buffer to the surface parking area. The views of the expanded parking will have little impact for adjacent residents along NE Schuyler and NE Tillamook as the reduction of the dog park area along these 2 frontages is approximately 65 feet, or less than one block face in depth comprised of half the block face being commercially zoned and the other half, R5. The expanded parking area will meet the perimeter parking lot landscaping standard along the frontages of Schuyler and Tillamook.

While the footprint of the dog park will be reduced, its location will remain essentially the same, thus it will continue to aid in directing traffic through the adjacent parking aisles. The open park-like area will provide a cooling function as there will be no asphalt placed within the remaining dog park footprint, and the

water feature/dog wading pool will remain as a central amenity of the park. The open dog park area will work in tandem with the required interior landscaping of the expanded parking area, which will provide direct cooling and shade within the parking lot itself.

The dog park area has been serving as a portion of the on-site stormwater management system for the vehicle area, which includes reducing the rate and temperature of the run off as well as filtering waterborne pollutants. The proposed reduction in the overall footprint of the dog park will still provide more than an acre of open fields which will continue to provide a significant contribution to this function.

The applicant has noted that stormwater management will be engineered to improve drainage in the field areas of the park so that these areas remain viable for visitors during the wetter months. One potential approach to improving drainage and reducing the mud factor may include utilization of artificial turf. However, if this approach is utilized, the visual buffering provided by the open area will remain unchanged, as will the other contributions the dog park area offers for stormwater management and pollution filtering via an engineered drainage system that will be required to meet the stormwater management manual at time of building permit review.

For all of these reasons, the proposal to reduce the overall area of the dog park will meet the intent of the perimeter landscaping standards and the remaining open fields will continue to provide significant visual buffering and softening to the parking area, enhance the 82nd Avenue frontage with an open park like area with additional landscaping along the pedestrian corridor, and continue to provide onsite stormwater management. This criterion is met.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The site is zoned CG, General Commercial.

The proposal is to reduce the overall area of the off leash dog park in order to expand the existing on-site parking with additional parking spaces. The off leash dog park will continue to have frontage along a Major Transit Street [NE 82nd], a Neighborhood Collector [NE Tillamook], and NE Schuyler. NE 80th runs behind the office building, and there are no views of the dog park from that public right of way.

The project will result in additional on-site parking and more than half the dog park area preserved. The additional on-site parking capacity will reduce and or eliminate spill over parking onto the adjacent residential streets. The dog park, with the ornamental and functional wrought iron fence and manicured landscaped buffer along the public sidewalk will be consistent with the classifications of the adjacent streets. The configuration of 5 feet of landscaping between the sidewalk and the dog park fencing provides an enhanced pedestrian environment and a visually pleasant streetscape for passers-by. Thus, the configuration of the expanded parking and reduction of open fields still result in a project that is supportive of a Major Transit Street. The original development of the site included the applicant providing a bus shelter, which will continue to remain, providing some weather protection for transit riders at this stop.

The desired character of the area, absent an adopted neighborhood plan, is defined by the zoning pattern of the immediately surrounding area, which is a primarily commercial adjacent to the easterly side of the site, where the dog park and proposed parking area are located.

<u>The CG zone</u> is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer 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. Parks and office buildings are allowed uses in the CG zone.

The proposal would result in a commercial development that meets all parking requirements, including the maximum number of allowed spaces, combined with over an acre of green and open grassy fields along NE 82nd frontage. The dog park facility will continue to function as a dog park open to the public, and improved drainage of the grassy areas will allow the fields to remain useable for canines and their owners during the wetter portions of the year.

For all of these reasons, this criterion is met.

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one adjustment is requested. This criterion is not applicable.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: There are no discernible negative impacts that would result from granting the requested adjustment. The proposal is to expand the parking lot capacity on-site by reducing the overall footprint of the existing dog park. The dog park facility will remain, and will be slightly over an acre in area. The additional on-site parking should result in the reduction and or elimination of spill over parking along the adjacent residential streets, thus a reduction of current impacts. The dog park and overall development of the site will continue to meet the prior conditions of approval and the previous mitigation measures required as part of the previous land use approval for the site, will remain. These mitigation measures include provision of a bus shelter along the NE 82nd frontage, provision of a covered walkway from 82nd to the office building and inclusion of decorative inlays for the steel fencing enclosing the dog park. For these reasons, this criterion is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

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

DEVELOPMENT STANDARDS

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

CONCLUSIONS

The applicant requests an Adjustment to allow the overall footprint of the existing dog park to be reduced in order to allow development of additional parking capacity on site, which is intended to reduce and or eliminate spill over parking onto the adjacent residential streets. The proposal meets all of the applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of:

- An Adjustment to reduce the size of the existing dog park to allow additional parking spaces to be developed on the site, per the approved site plan, Exhibit C-1, signed and dated April 9, 2013, 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-120560 AD."

Staff Planner: Sylvia Cate

Decision rendered by: on April 9, 2013

By authority of the Director of the Bureau of Development Services

Decision mailed: April 12, 2013

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

Procedural Information. The application for this land use review was submitted on February 26, 2013, and was determined to be complete on March 4, 2013.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on February 26, 2013.

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: July 1, 2013.**

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

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this

information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

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

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

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on April 26, 2013** 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 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 Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

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

- Unless appealed, The final decision may be recorded on or after April 29, 2013.
- A building or zoning permit will be issued only after the final decision is recorded.

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

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

For further information on recording, please call the County Recorder at 503-988-3034 For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

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

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

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

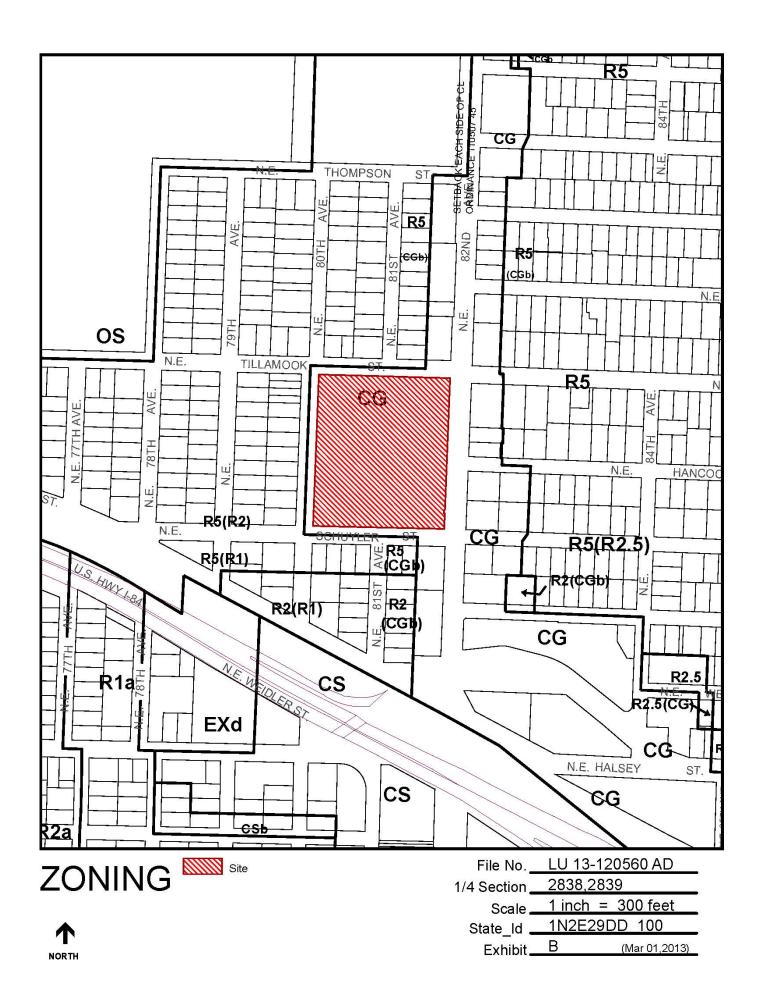
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Frank Walsh, Land Use Chair for Madison South Neighborhood Association, March 28, 2013, in opposition
- 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).



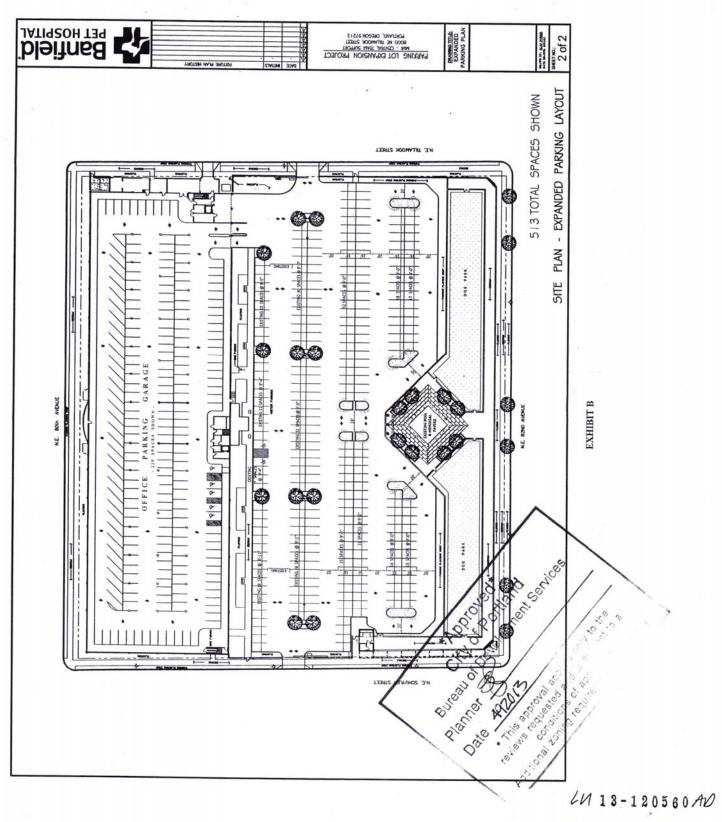


EXHIBIT C-1