



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: September 12, 2013
To: Interested Person
From: Douglas Hardy, Land Use Services
503-823-7816 / Douglas.Hardy@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 13-122484 AD

GENERAL INFORMATION

Applicant: David Benko / Rocket City Neon
6301 NE 124th Street / Vancouver, WA 98686

Owner: Woody Wheeler / 24th Street LLC
2735 E Burnside Street / Portland, OR 97214

Site Address: 2422 SE Hawthorne Boulevard

Legal Description: Block1, Lot 1 & 14, Helen L Strattons Add.
Tax Account No.: R374100010
State ID No.: 1S1E01CB 19300 **Quarter Section:** 3232
Neighborhood: Hosford-Abernethy, contact Joanne Stainbrook at 503-231-9245
Business District: Hawthorne Blvd. Bus. Assoc., contact Hilda Stevens at 503-774-2832
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010
Zoning: R1 (Multi-dwelling residential 1,000)
Case Type: AD (Adjustment)
Procedure: Type II, Administrative decision with appeal to Adjustment Committee

Proposal:

The applicant has requested an Adjustment to the Portland Sign Code (Title 32). The Adjustment is necessary because the Sign Code limits the maximum area of a sign in the R1 zone to 50 square feet. In this case the proposed open pan channel neon sign is approximately 91 square feet (see attached plans).

The sign is composed of three words: "Township"; "and"; and "Range". In this case, the Sign Code requires that an imaginary rectangle be drawn around the sign elements, including the space between, to determine the total sign area. The overall length of the sign is 41.5 feet and the highest letter is 2.17 feet, for a total of approximately 91 feet. The words "Township and" will be mounted directly on the wall and the word "Range" will be freestanding and attached on top of the canopy structure so that it is within the same plane as the other two words.

Note: Although the site is zoned for residential use, there are documented nonconforming rights for a commercial use at the site, so the use is allowed. This review will consider only the sign area.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in 32.38.030 C.1 or C.2.

ANALYSIS

Site and Vicinity: The 8,700 square foot site is located at the southeast corner of SE Hawthorne Boulevard and SE 24th Avenue. The site is developed with a one-story, 3,810 square foot commercial building constructed close to the two street lot lines, with surface parking located to the rear of the building. Mature deciduous street trees are located along the site's SE 24th Avenue frontage, with no street trees along the site's SE Hawthorne Boulevard frontage.

With a few exceptions, development within a one to two block radius of the site, along SE Hawthorne Boulevard, is predominantly developed with one to two-story commercial uses, even on properties that are located in the R1 Multi-Dwelling Residential. The exceptions to this are several duplex structures located immediately north of the subject site, across SE Hawthorne Boulevard, as well as a Community Service/Group Living facility located immediately east of the duplexes. Single-dwelling residential uses predominate on the side streets north and south of SE Hawthorne Boulevard.

Zoning: The blockfront on which the subject site is located, as well as the two blockfronts immediately north and northwest of the subject site, are located in a Multi-Dwelling Residential 1,000 (R1) zone. The use regulations of the Multi-Dwelling zones are intended to create and maintain higher density residential neighborhoods. At the same time, they allow for large scale institutional campuses and other nonresidential uses but not to such an extent as to sacrifice the overall residential neighborhood image and character. The development standards work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The development standards generally assure that new development will be compatible with the City's character.

While the existing use on the site is considered Retail Sales and Service, and therefore not allowed in the R1 zone, the applicant has previously demonstrated (though Building Permit 12-150541 CO) that legal nonconforming rights exist for this use (Exhibit G.2). This essentially means that a Retail Sales and Service use was established on the site when a previous zone mapped on the property would have allowed such a use, and that the use has continued over time without a vacancy exceeding three consecutive years.

The Sign Code (Title 32) states that the sign standards of the CN zone apply to nonconforming commercial uses located in the residential zones (Section 32.32.010.A, Table 32.32-1). These regulations allow a total sign area of up to one and one-half square feet per one lineal foot of primary building wall, with a maximum size per sign of 50 square feet. Given the length of the primary building wall on the subject site, a total sign area of up to 97.5 square feet would be allowed.

Other lots fronting SE Hawthorne Boulevard, within a two block radius of the subject site, are all located in a Storefront Commercial (CS) zone. The CS zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone intends that new development in these areas will be compatible with this desired character. The zone allows a full range of retail, service and business uses with a local and regional market area. 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 area. The desired character includes areas which are predominantly built-up, with buildings

close to and oriented towards the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged. In the CS zone, a total sign area of up to 97.5 square feet would be allowed on the subject site given the length of the primary building wall, with a maximum size per sign of 100 square feet.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A Notice of Proposal was mailed March 18, 2013. The following City bureaus have responded with no issues or concerns regarding the requested land use review:

- Bureau of Environmental Services (Exhibit E.1);
- Portland Bureau of Transportation (Exhibit E.2);
- Water Bureau (Exhibit E.3);
- Fire Bureau (Exhibit E.4);
- Bureau of Development Services Site Development Section (Exhibit E.5);
- Bureau of Development Services Life Safety Plans Examiner (Exhibit E.6); and
- Portland Parks & Recreation/Urban Forestry Division (Exhibit E.7).

Neighborhood Review: In a letter dated April 4, 2013, Charles Sullivan submitted a letter co-signed by nine other area residents that expressed objections to the requested Adjustment (Exhibit F.1). While the neighbors were not concerned with the size of the sign, they were concerned with the amount of glare cast on nearby residential properties from the neon-lit sign. The neighbors found the glare cast by the sign could adversely impact the livability of their residential properties.

In response to these concerns, the applicant has met on-site with the concerned residents and the Chair of the Hosford-Abernethy Neighborhood Association. A consensus was reached that resulted in the installation of a dimmer on the sign that will allow the amount of light generated to be reduced. A follow-up e-mail from Charles Sullivan, dated September 6, 2013, indicated with the installation of the dimmer the neighbors are satisfied they can work with the owner outside the land use review process on an acceptable light level for the sign (Exhibit F.2). An e-mail was received on September 5, 2013, from the owner of two properties immediately west of the subject site at 2310 SE Hawthorne Boulevard and 1515 SE 24th Street, expressing no objections to the sign (Exhibit F.3). An additional e-mail was received from the property owner/resident at 2403 SE Hawthorne Boulevard, directly north of the subject site, who indicated she had no issues with the requested Adjustment (Exhibit F.4).

ZONING CODE APPROVAL CRITERIA

32.38.30 Sign Adjustment Review

- A. Purpose.** Sign adjustments are intended to allow flexibility to the sign regulations while still fulfilling the purpose of the regulations. The specific approval criteria allow signs that enhance the overall character of an area or allow for mitigation of unusual site conditions.
- B. Procedures.** The adjustment procedures stated in Chapter 33.805, Adjustments, apply to sign adjustments. However, the approval criteria of this section are used, rather than those of Chapter 33.805 of the Zoning Code.
- C. Approval criteria.** Sign adjustments will be approved if the review body finds that the applicant has shown that the criteria of Paragraph C.1 or 2, below are met.
1. Area enhancement. The applicant must meet Criteria C.1.a. and b. and either C.1.c. or d.
 - a. The adjustment for the proposed sign will not significantly increase or lead to street level sign clutter, to signs adversely dominating the visual image of the area, or to a sign that will be inconsistent with the objectives of a specific plan district or design district; and

- b. The sign will not create a traffic or safety hazard; and
- c. The adjustment will allow a unique sign of exceptional design or style that will enhance the area or that will be a visible landmark; or
- d. The adjustment will allow a sign that is more consistent with the architecture and development of the site.

Findings: The maximum allowed sign area is based on the “primary building wall” to which the sign is accessory. For nonconforming commercial uses in a residential zone, the total area of signs allowed on the site is one and one-half square feet of sign area per one lineal foot of primary building wall. For the subject site, the primary building wall (facing SE Hawthorne Boulevard) is 65 feet in length, meaning the allowed sign area for all signs on the site is 97.5 square feet. Additionally, the sign regulations limit the maximum size of any one sign to 50 square feet. The applicant is proposing a sign that contains three separate elements, with each element consisting of a word. Because the horizontal distance between the three elements of the sign is less than twice the width of each element, the three elements are considered a single sign. The area of the three sign elements added together (including the horizontal distance between the elements) is 91 square feet.

Criterion C.1.a

Because the sign is not located in a plan district or a design district, findings for this criterion must demonstrate that the proposed sign will not significantly increase or lead to street level sign clutter, and that the sign will not adversely dominate the visual image of the area.

While the proposed sign area is 41 square feet larger than the maximum allowed for nonconforming commercial uses in a residential zone, the type of sign proposed reduces its perceived size. The Sign Code requires calculating a sign’s area by placing an imaginary rectangular box around the outer edge of the individual sign elements, as seen below.

T o w n s h i p a n d R a n g e

In the applicant’s case, each letter that makes up the three words of the sign is a freestanding element. While the area of the imaginary rectangular box results in a sign that exceeds the maximum allowed size, the cumulative area of each individual freestanding letter is significantly less than the maximum 50 square feet allowed for the site.

The visual size of the sign is further reduced by limiting the size of letters used. The majority of the letters will be slightly less than one and one-half foot in height, with only four of the 16 letters exceeding that height. The four letters that exceed this height will be only slightly more than two feet in height. The limited size of letters, in combination with the overall open design, mitigates for the increased sign area and ensures that the sign will not contribute to street clutter.

Lastly, the site is located in a pocket of R1 zoning along a commercial corridor that is extensively mapped with Storefront Commercial (CS) zoning. Also, many of the residentially zoned properties are developed or used for non-residential purposes, such as the applicant’s site. In the adjoining CS zones, a sign area up to 100 square feet is allowed. In this context, the applicant’s 91 square foot sign is appropriate for the area and will not visually dominate the SE Hawthorne Boulevard corridor.

As proposed, this criterion is met.

Criterion C.1.b

This criterion requires demonstrating that the sign will not create a traffic or safety hazard. The sign has been placed above a horizontal canopy-like structure that cantilevers from the building façade, with the majority of the sign (the words “Township” and “and”) affixed to the building wall. In this location, and given the limited size of the individual letters that make up the sign, there is nothing in the record to indicate that this sign would present a traffic or safety hazard, and in any case, will appear little different in size than other signs found along the SE Hawthorne Boulevard corridor.

As proposed and with the condition of approval, this criterion is met.

Criterion C.1.d

This criterion requires demonstrating that the Adjustment request will allow a sign that is more consistent with the architecture and development of the site. The style of sign is consistent with the period of the building on which it proposed. The building, constructed in 1955, has clean, modern, horizontal lines that evoke the 1950s era. The applicant has provided a building elevation from the 1950s that shows the original “Prudential” sign that was affixed to the building (Exhibit A.2). The proposed style and typeface of the sign and its elongated, horizontal orientation echoes that of the original sign, and the period of the building. The substantive difference between the two signs is the size – the original 1950s sign was 150 square feet in area, 59 square feet larger than what is currently being proposed.

Additionally, the proportions of the proposed sign are compatible with the scale of the building on which it is affixed. The primary building wall on which the sign is located, facing SE Hawthorne Boulevard, is approximately 65 feet in length and 17 feet in height, with an area of approximately 1,105 square feet. The sign is located on the upper portion of the building, and is integrated into the architecture of the building by resting on a canopy-like structure that cantilevers from the building. The sign consists of individual “cut-out” letters, with the largest of these letters being slightly more than two feet in height. Most of the letters measure slightly less than one and one-half feet in height. The open design of the sign, combined with the limited size of the letters, results in the sign covering less than 20 percent of the portion of the building wall above the canopy-like structure.

As proposed, this criterion is met.

2. Site difficulties. If there are unusual site factors that preclude an allowed sign from being visible to the street immediately in front of the site, an adjustment will be granted to achieve the visibility standards of Subparagraph d below. This adjustment is not intended to be used to make signs visible to other streets and rights of way or to freeways. Site difficulties may include the sign face being blocked due to topography of the site, existing development or landscaping on the site, or from an abutting development or landscaping. This set of adjustment criteria is generally intended for freestanding and projecting signs and allows greater flexibility in placement of the sign.

Findings: There are no unusual site factors in this case. The site is flat, and the sign is visible from the street immediately in front of the site. This approval criterion does not apply.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards 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 via a land use review prior to the approval of a building or zoning permit.

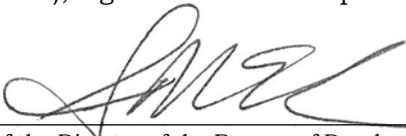
CONCLUSIONS

The applicant has demonstrated that the relevant approval criteria have been met for an Adjustment request that increases the maximum allowed area of the sign. The sign will not significantly increase or lead to street level clutter, nor adversely dominate the visual image of the area. Instead, the sign will complement and be more consistent with the architecture of the 1950s era building that is on the site, and with the size of signs seen on other buildings along this mixed-use corridor.

ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum area of a sign (Sign Code Section 32.32.010.A) from 50 square feet to 91 square feet, per the approved site plan and sign elevations (Exhibits C.1 through C.3), signed and dated September 11, 2013.

Staff Planner: Douglas Hardy

Decision rendered by:  **on September 11, 2013.**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 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 March 4, 2013, and was determined to be complete on March 15, 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 March 4, 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 requested that the 120-day review period be extended 110 days. Unless further extended by the applicant, **the 120 days will expire on October 31, 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 September 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 **September 27, 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.

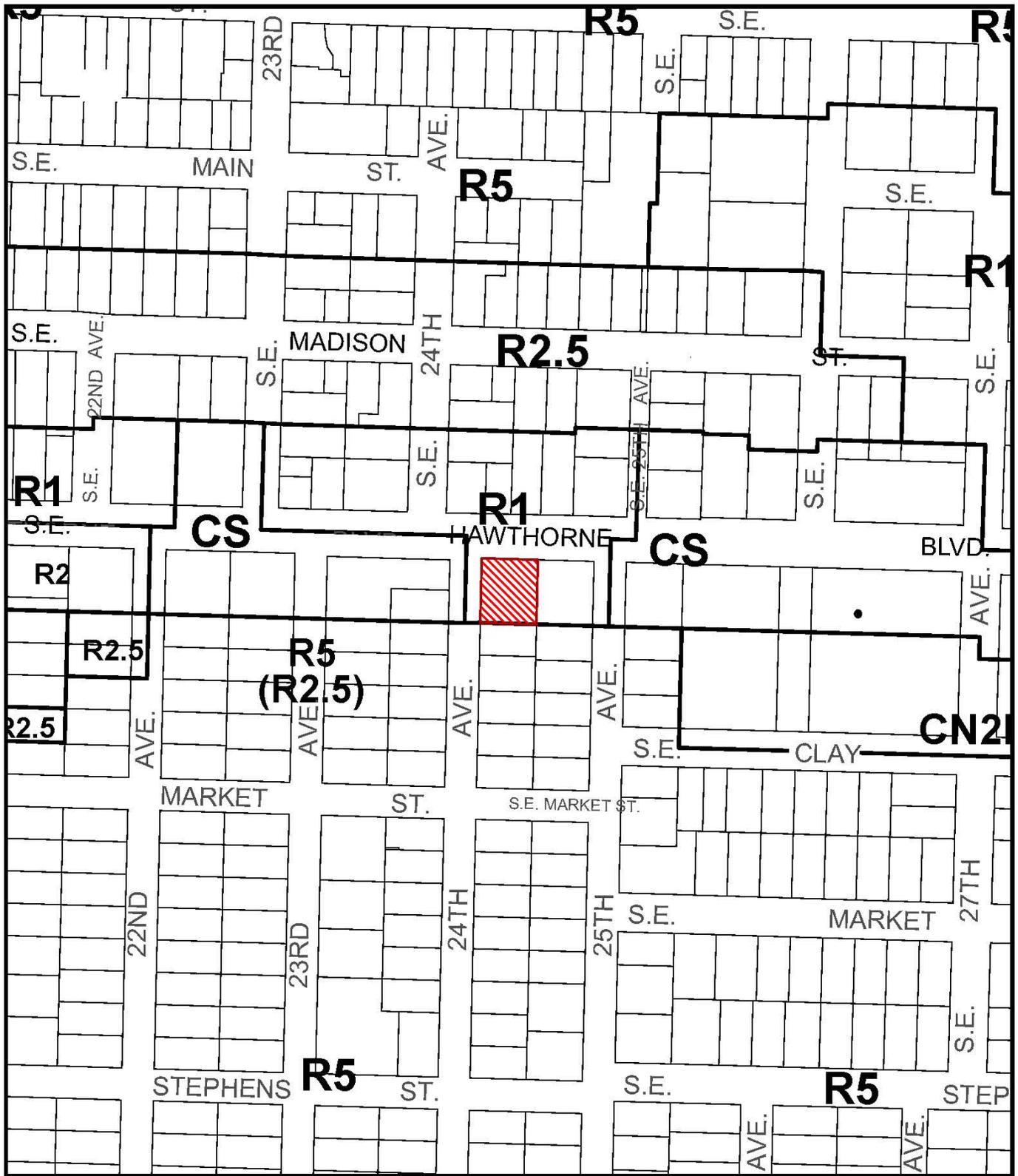
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Written narrative
 2. Photos of proposed sign
 3. Specifications for proposed sign
 4. Calculations for proposed sign
 5. Photo of building elevation with sign
 6. Photo of existing sign
 7. 1954 Building elevation
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site plan (attached)
 2. Building/sign elevation (attached)
 3. Sign dimension (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Portland Bureau of Transportation
 3. Water Bureau
 4. Fire Bureau
 5. Bureau of Development Services Site Development Review Section of BDS
 6. Bureau of Development Services Life Safety Plans Examiner
 7. Portland Parks & Recreation/Urban Forestry Division
- F. Correspondence:
 1. Letter from Charles Sullivan et al., dated March 31, 2013
 2. E-mail from Charles Sullivan, received September 6, 2013
 3. E-mail from Prescott Allen, received September 5, 2013
 4. E-mail from Amy Patino, received September 6, 2013
- G. Other:
 1. Original LU Application
 2. Building Permit # 12-150541 CO, documenting legal nonconforming rights for a retail use

3. Letter from Bureau of Planning, dated August 26, 2008, regarding nonconforming use status of property
4. E-mail from applicant received April 9, 2013, requesting delay in issuance of decision
5. E-mail from applicant received July 29, 2013, requesting extension of 120-day period

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

File No. LU 13-122484 AD
 1/4 Section 3232
 Scale 1 inch = 200 feet
 State_Id 1S1E01CB 19300
 Exhibit B (Mar 04, 2013)

SITE PLAN

PROJECT ADDRESS

2422 SE. HAWTHORNE BLVD.
PORTLAND OREGON 97214

Approved
City of Portland
Bureau of Development Services
Planner [Signature]
Date 9.11.17
* This approval applies only to the reviews requested and is subject to all conditions of approval.
Additional zoning requirements may apply.

LOCATION OF SIGN

1" = 10'

CANTILEVERED OVER HANG

65' (PBW)

CANTILEVERED OVER HANG

S. E. HAWTHORNE BLVD.

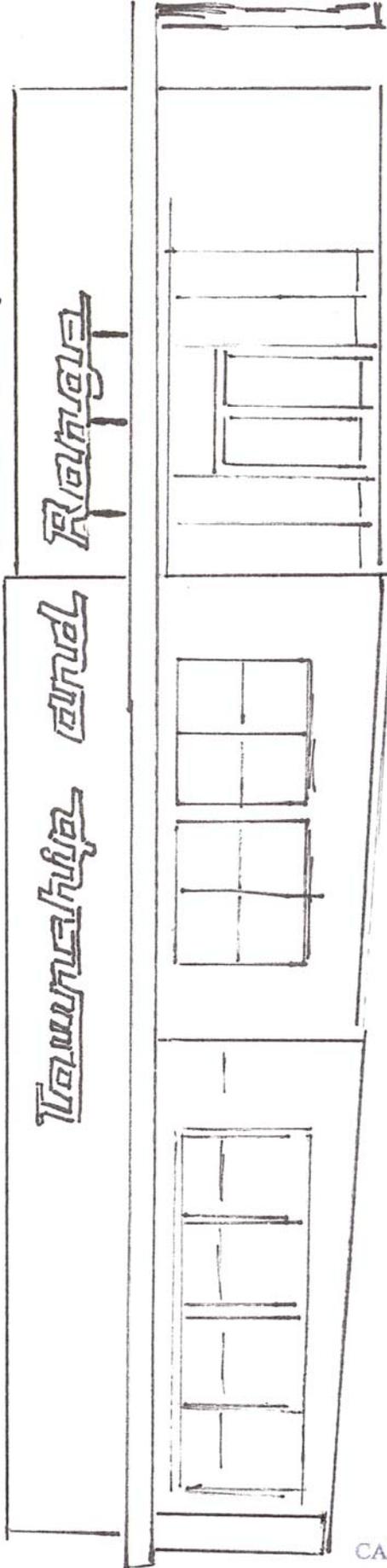
S. E. 24TH AVE.

CASE NO. 13-122462 AD
EXHIBIT CL



* Approved*
 City of Portland
 Bureau of Development Services
 Planner _____
 Date 9.11.13

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

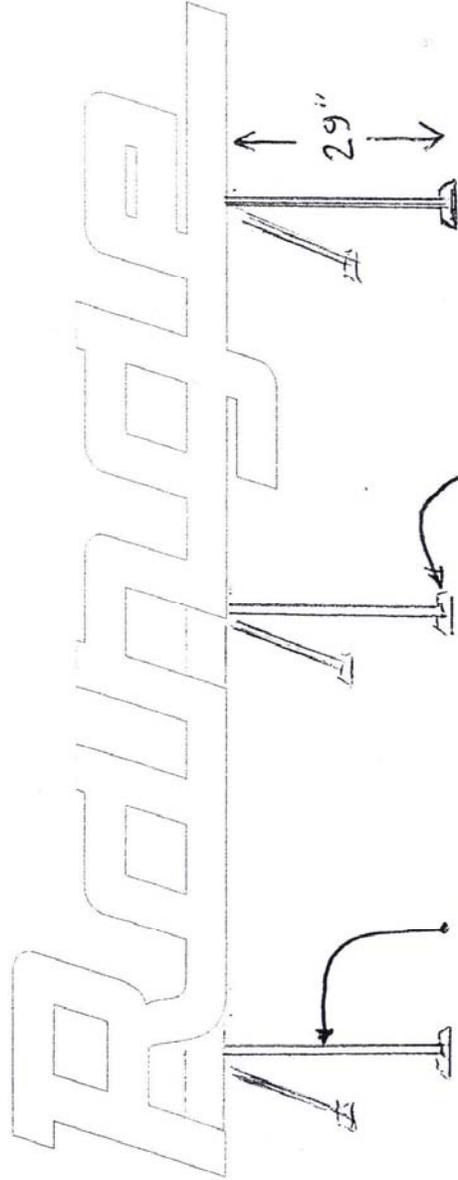
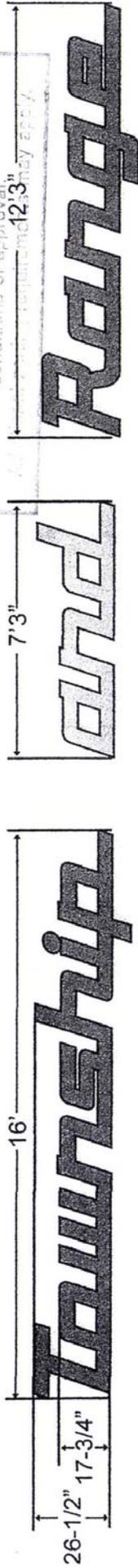


CASE NO. 13-122484-60
 EXHIBIT C2

Letter Dimensions

Approved
 City of Portland
 Bureau of Development Services
 Planner [Signature]
 Date 9.11.13

* This approval applies only to the reviews requested and is subject to all conditions of approval.
 * This approval expires on 12/31/14. Any other conditions may apply.



1/2" LAGS INTO
 SOLID BUILDING
 STRUCTURE

CASE NO. 13-122481A
 EXHIBIT C3