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503-588-6173*

DECISION OF THE HEARINGS OFFICER

SIGN VARIANCE / SIGN PERMIT CASE NO.: VAR-SI20-03

APPLICATION NO.: 20-112701-SA

NOTICE OF DECISION DATE: October 22, 2020

SUMMARY: A request for a Sign Variance and Sign Permit to increase the display surface of an existing freestanding sign to approximately 548 square feet in size, for property approximately 48 acres.

REQUEST: A request for a variance to increase the display surface of freestanding sign, as allowed by SRC 900.200(c), to increase the square footage of a freestanding sign to approximately 548 square feet in size, for property approximately 48 acres in size, zoned CR (Retail Commercial), and located at 827-955 Lancaster Drive NE (Lancaster Mall) - 97301; (Marion County Assessor Map and Tax Lot Numbers #072W19CC / 04200, 04502, 04504, 04700 05300, 05400, 5402, 5403, & 05800).

APPLICANT: Seth Garey and Michael Janusek on behalf of Lancaster Development Company LLC (Margaret Kushner)

LOCATION: 827 Lancaster Dr NE, Salem OR 97301

CRITERIA: Salem Revised Code (SRC) Chapters 900.040(d) – Sign Variances, 900.025(d) – Sign Permits

FINDINGS: The findings are in the attached Decision dated October 21, 2020

DECISION: The **Hearings Officer APPROVED** Sign Variance / Sign Permit VAR-SI20-03.

The rights granted by the attached decision must be exercised, or an extension granted, by November 7, 2022, or this approval shall be null and void.

Application Deemed Complete:	<u>August 28, 2020</u>
Public Hearing Date:	<u>October 14, 2020</u>
Notice of Decision Mailing Date:	<u>October 22, 2020</u>
Decision Effective Date:	<u>November 7, 2020</u>
State Mandate Date:	<u>December 26, 2020</u>

Case Manager: Olivia Dias, odias@cityofsalem.net, 503-540-2343

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at planning@cityofsalem.net, no later than 5:00 p.m., Friday, November 6, 2020. Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s)

VAR-SI20-03 Notice of Decision

October 22, 2020

Page 2

900. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

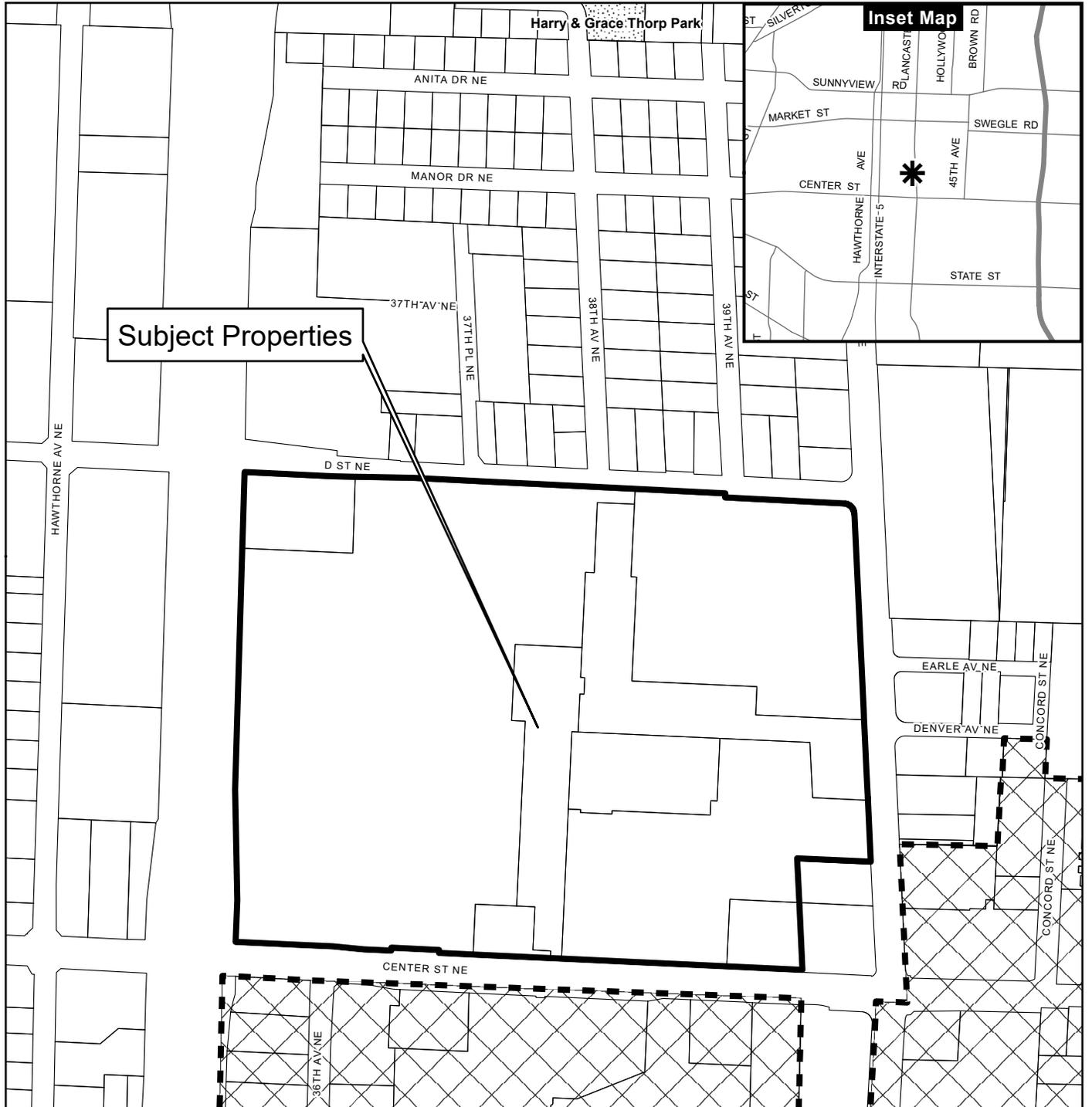
The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

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Vicinity Map

833-955 Lancaster Drive NE



Subject Properties

Legend

-  Taxlots
-  Urban Growth Boundary
-  City Limits
-  Outside Salem City Limits
-  Historic District
-  Schools
-  Parks

CITY OF Salem
 AT YOUR SERVICE
 Community Development Dept.

0 100 200 400 Feet



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EXTERIOR | PYLON SIGN - FREEWAY VIEW



Account Manager: Dylan Martin

Project Name 
Willamette TOWN CENTER

831 Lancaster Dr NE
Salem, OR 97301



PROPOSED SIGNAGE - FREEWAY VIEW

Client Approval: _____

Landlord Approval: _____

COLORS

MATTHEWS PAINT SATIN BLACK  WHITE POLYCARB 

CITY CODE ALLOWANCE

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This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code and/or other applicable local codes. This includes proper grounding and bonding of the sign.

Date: 03.09.2020 Drawing: 20-mm104r1 Sheet: 2 of 3

EXTERIOR | SITE PLAN



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Portland, Oregon 97202
503-232-4172

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WA SECURS1020CF

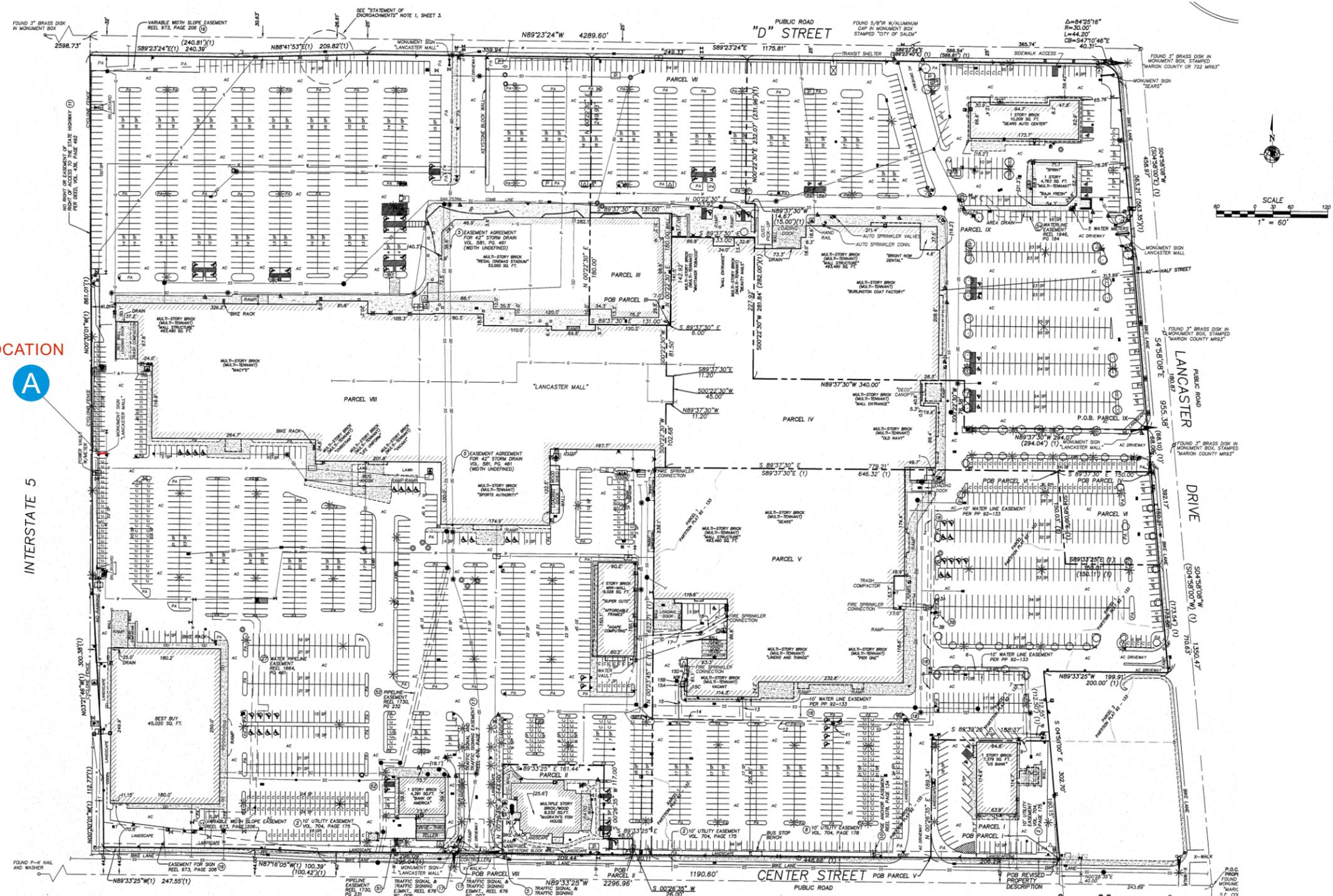


Account Manager: Dylan Martin

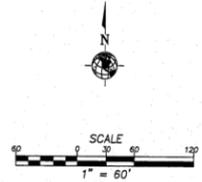
Project Name



831 Lancaster Dr NE
Salem, OR 97301



SIGN LOCATION



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Drawing: 20-mm104r1

Sheet: 3 of 3

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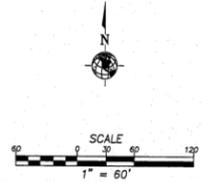
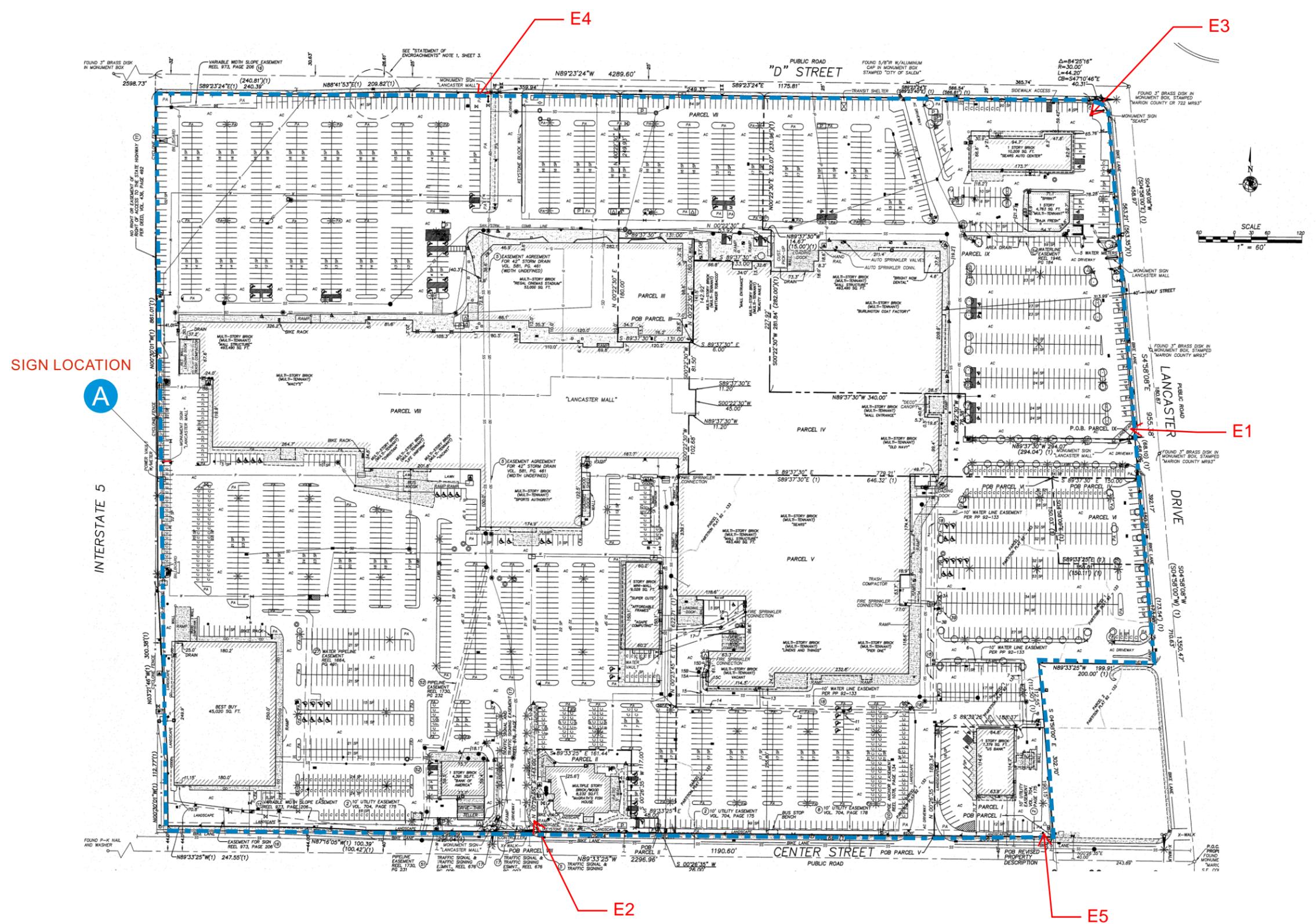


Account Manager: Dylan Martin

Project Name



831 Lancaster Dr NE
Salem, OR 97301



SIGN LOCATION

A

INTERSTATE 5

Client Approval: _____

Landlord Approval: _____

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This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code and/or other applicable local codes. This includes proper grounding and bonding of the sign.

Date: 03.09.2020

Drawing: 20-mm104r1

Sheet: 3 of 3

Willamette Town Center Sign Inventory

Sign	Size (SF)	Height (FT)	Location	Variance/Adjustment	
E1	275	37	Lancaster Dr	Adj for 10% increase	
E2	275	37	Center St	Adj for 10% increase	
E3	165	28	Lancaster Dr	Variance for larger 2nd sign	VAR-SI-18-01
E4	50	20	D St	Secondary Pylon on D St	
E5	50	15	Center St	Secondary Pylon on Center St	US Bank

**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

A REQUEST FOR A SIGN VARIANCE AND SIGN PERMIT TO INCREASE THE DISPLAY SURFACE OF AN EXISTING FREESTANDING SIGN TO APPROXIMATELY 548 SQUARE FEET IN SIZE, FOR PROPERTY APPROXIMATELY 48 ACRES.	}) }) }) }) }) }) })	VAR-SI20-03 FINDINGS OF FACT, CONCLUSIONS, AND DECISION
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DATE AND PLACE OF HEARING:

Wednesday, October 14, 2020, 5:30PM, remote via Zoom and live streamed on YouTube.

APPEARANCES:

<u>Staff:</u>	Olivia Dias, Planner III
<u>Neighborhood Association:</u>	Northeast Salem Community Association (NESCA)
<u>Proponents:</u>	Lancaster Development Company LLC (Margaret Kushner) Seth Garey on behalf of Lancaster Development Company LLC Michael Janusek on behalf of Lancaster Development LLC

SUMMARY OF THE APPLICATION AND HEARING

BACKGROUND

On August 4, 2020, Seth Garey, CE John Company Inc, filed sign variance and sign permit applications on behalf of the property owner, Lancaster Development Company LLC, C/O CE John Company Inc and Lancaster Properties 52 LLC, with a request to increase the display surface of an existing freestanding sign, as allowed by SRC 900.200 (c)(A)(i)(a), to increase the display surface of a freestanding sign to approximately 548 square feet in size, located at 827-955 Lancaster Drive NE.

The sign is proposed for the Willamette Town Center, formally known as the Lancaster mall which is located within the CR (Retail Commercial) zone. SRC Chapter 900.200(c) allows freestanding signs in a shopping center based on the building

frontage on a designated arterial or collector street. The proposal is to increase the display surface of an existing freestanding sign. The applicant is requesting a sign variance for a freestanding sign for the display surface to increase to 548 square feet in size.

The existing freestanding sign was granted a previous variance (VAR13-01) to increase the height of the sign from 30-feet to 50-feet in 2013.

The public hearing before the City of Salem Hearings Officer was held remotely on October 14, 2020, at 5:30 p.m. Notice of public hearing was sent by mail to surrounding property owners and tenants pursuant to Salem Revised Code (SRC) requirements on September 24, 2020. Public hearing notice was also posted on the property pursuant to SRC 300.620(3).

Based on the application, the Hearings Officer makes the following:

FINDINGS OF FACT AND CONCLUSIONS

1. Salem Area Comprehensive Plan (SACP) designation

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "Commercial". The subject property is within the Urban Growth Boundary and the Urban Service Area.

2. Zoning and Surrounding Land Uses

The subject property consists of several lots which are all zoned CR (Retail Commercial) and are part of an existing regional shopping center.

The zoning and uses of surrounding properties include:

North: CR (Retail Commercial), CO (Commercial Office), RM2 (Multiple Family Residential), RS (Single Family Residential), (across D Street NE): Apartments, single family dwellings, and commercial uses.

South: CR (Retail Commercial), County (across Center Street NE): Multi-tenant shopping complexes, restaurants, drug store.

East: CR (Retail Commercial), County (across Lancaster Drive NE): Multi-tenant shopping complex, restaurants, bank, grocery store, retail store.

West: CG (General Commercial), CO (Commercial Office), PS (Public Service), (across Interstate-5): multi-tenant business complex and school bus yard.

3. Site Analysis

The subject property is approximately 48 acres in size and has frontage along Lancaster Drive NE, D Street, Center Street NE, and Interstate-5. Lancaster Drive NE and Center Street NE are designated as major arterial streets, D Street NE is designated a minor arterial street, and I-5 is designated as a Freeway in the Salem

Transportation System Plan. The sign will be located at the northeast corner of the shopping center, on the corner of Lancaster Drive NE and D Street NE.

4. Neighborhood and Citizen Comments

Staff provided notice of the application to the North East Salem Community Association (NESCA), East Lancaster Neighborhood Association (ELNA), and all property owners of record within 250 feet of the subject property. ELNA provided comments with no concerns with the proposal. No comments were received from NESCA, or surrounding property owners. Except for the applicants, there was no written or oral testimony offered in this matter.

5. City Department and Public Agency Comments

The Building and Safety Division did not express concern with the application. A building permit and engineering plans may be required for the freestanding sign.

6. Analysis of Sign Variance Criteria – SRC Chapter 900

A sign variance shall not provide for any of the following:

- a) To allow a sign prohibited by SRC 900.020 (Prohibited Signs).
- b) To decrease a setback or special setback.
- c) To allow placement of a sign in a vision clearance area.
- d) To allow structural alterations to a non-conforming or non-complying sign.
- e) To authorize a sign not otherwise permitted on the property for which the variance is sought.
- f) To allow any sign other than those specifically allowed by this Chapter.
- g) To modify the display and brightness regulations for electronic display signs established by SRC 900.090.

Pursuant to SRC 900.040(d), an application for a sign variance shall be granted if the following criteria are met:

Criterion 1:

Compliance with the applicable standard would create an unnecessary hardship due to unique or unusual physical conditions of the property over which the applicant has no control, such as topography and lot shape, which are not present on other properties in the vicinity that have the same zone designation; the hardship does not result from actions of the applicant, owner, or previous owners of the property; and the sign variance is limited to the minimum reasonably necessary to alleviate the problem created by the unique or unusual physical conditions.

Hearings Officer Findings: The Hearings Officer notes that the shopping center is approximately 48 acres in size, has approximately 1,200 feet of frontage along Lancaster Drive NE, and approximately 1,700 feet of frontage along D Street NE.

As the applicant discussed, the subject property is larger and contains more tenant spaces than any other property in the area. The proposal is to increase the area of an existing freestanding sign as allowed under SRC 900.200(c)(A)(i)(a). Approval of this variance will not change the number of freestanding signs on the property and should not be seen as such. The Hearings Officer finds that the appearance and function of the proposed sign will not adversely affect, or be out of character with, other signage used by businesses along Lancaster Drive NE and Interstate 5.

The Hearings Officer notes that the shopping center located at the corners of Center and Lancaster and D Street and Lancaster Drive, was previously not considered a shopping center based on the nature of the ownership and the layout of the development site. This led to signage that is inconsistent with the signage allowed for a shopping center. The subject property, pursuant to SRC 900.200 (c)(A)(i)(a), is allowed a freestanding sign for each frontage along an arterial or collector, unless on a corner one sign is allowed. The shopping center has three frontages along an arterial or collector street, allowing two freestanding signs.

Previously, Tax Lots 4504 and 4600 were considered a separate shopping center, and tax lot 4700 was a standalone commercial property. The two signs located on these tax lots are now non-conforming since the property is now incorporated into the development site of Willamette Town Center.

Several of the other freestanding signs are located at entrances to the shopping center. The sign proposed for this variance would be the first sign visible for southbound motorists on Lancaster Drive. The sign would also provide notification of the shopping center to those motorists traveling along Interstate-5 from a sufficient distance to provide an opportunity for maneuvering to exit at Market Street NE.

The Hearings Officer finds that the variance is necessary due to the large size of the property, the distance between the freestanding sign, and the number of tenants the property supports. The Hearings Officer finds that the proposal is the minimum needed to alleviate the problem created by this site's existing conditions.

Based on the above, the Hearings Officer finds that the application satisfies this criterion.

Criterion 2:

The sign variance is necessary to permit signage comparable with other properties in the vicinity that have the same zone designation.

Hearings Officer Findings: The Hearings Officer notes that a shopping center in the CR zone can have one freestanding sign on each building frontage which is

along a designated arterial or collector street. However, if the shopping center is located on a corner lot where the two intersecting streets are designated as either arterial or collector streets, only one freestanding sign is allowed. In addition, shopping centers with street frontage greater than 300 feet may have an additional freestanding sign. An individual business within a shopping center in the CR zone may have a wall sign for each building frontage or building face.

The Hearings Officer notes that the subject property is approximately 48 acres in size and has approximately 1,200 feet of frontage along Lancaster Drive NE and approximately 1,700 feet of frontage along D Street NE, which is much larger than other properties in the vicinity. The proposal is to increase the size of an existing sign, so the only change will be the appearance of the sign, not the location or type. The property will have the same number of freestanding signs if the variance is approved. The appearance and function of the proposed sign will not adversely affect, or be out of character with, other signage used by businesses along Lancaster Drive NE.

The Hearings Officer notes that compared to properties within a mile north and south of the shopping center along Lancaster Drive, the next largest property is 16 acres in size. The Hearings Officer notes that the existing shopping center currently supports approximately 60 businesses. Each business could be entitled to a wall sign. Due to the size of the property, wall signs are not likely to be viewed from the public right of way.

The Hearings Officer notes that the shopping center consists of ten separate buildings, on several tax lots under common ownership, which share a vehicle use area. If the lots had separate businesses which did not share a vehicle use area, each lot would be permitted to have a freestanding sign on their building frontage. The proposed freestanding sign would be approximately 50 feet in height and 548 square feet in area, which is comparable to other freestanding signs permitted in the CR zoning district based on the size of the subject property.

Based on the above, the Hearings Officer finds that the application satisfies this criterion.

Criterion 3:

The sign variance will not adversely affect the function or appearance of the development and use of the property and surrounding properties.

Hearings Officer Findings: The Hearings Officer notes that Lancaster Drive NE is designated as a major arterial street in the Salem Transportation System Plan. Most properties along the Lancaster Drive corridor have a CR (Retail Commercial) zoning designation, which allows signs that are similar in size. The proposal is to increase the size of an existing sign, so that the only change will be the appearance of the sign. The property will have the same number of freestanding signs if the variance is approved. The appearance and function of the proposed sign will not

adversely affect, nor will it be out of character with, other signage used by businesses along Lancaster Drive NE.

Based on the above, the Hearings Officer finds that the application satisfies this criterion.

Criterion 4:

The sign variance will not impose limitations on other properties and signage in the area, including signage that would be allowed on adjacent properties.

Hearings Officer Findings: The Hearings Officer notes that the proposal is to allow an existing sign to increase the display surface to 548 square feet, which would not limit allowed signage for other buildings on the subject property or the allowed signage for adjacent properties.

Based on the above, the Hearings Officer finds that the application satisfies this criterion.

7. Analysis of Sign Permit Approval Criteria – SRC Chapter 900

SRC Chapter 900.025(d) provides that an application for a sign permit shall be granted if the following criteria are met:

Criterion 1:

The sign meets the requirements of SRC Chapter 56.

Hearings Officer Findings: The Hearings Officer notes that the Building and Safety Division has received a building permit including engineering, which has been approved, pending the variance application. The Hearings Officer finds that the application satisfies this criterion.

Criterion 2:

The sign is allowed in the zone.

Hearings Officer Findings: The Hearings Officer notes that with the variance approval, the freestanding sign would be allowed in the CR zone. The Hearings Officer finds that the application satisfies this criterion.

Criterion 3:

The sign will not interfere with the use of any public right-of-way, other public easements, or other publicly owned property.

Hearings Officer Findings: The Hearings Officer notes that no evidence has been presented that the sign will interfere with use of the public right-of-way, public easements, or other publicly owned property. The Hearings Officer finds that the application satisfies this criterion.

Criterion 4:

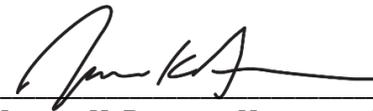
The sign conforms to all the applicable standards in this Chapter.

Hearings Officer Findings: The Hearings Officer notes that SRC Chapter 900.200(c)(1) provides that freestanding signs are allowed for each building frontage on a designated arterial or collector, however, when the shopping center is located on a corner lot where the two intersecting streets are either designated as an arterial street or designated as a collector street, only one freestanding sign shall be allowed. The variance request is to increase the display surface of a permitted freestanding sign. If the variance is granted, the sign will conform to the standards of this chapter and the sign permit shall be granted. The Hearings Officer finds that the application satisfies this criterion.

DECISION

Based on the Facts and Findings presented in this staff report, the Hearings Officer APPROVES the request for a Sign Variance and Sign Permit to increase the amount of freestanding sign, as allowed by SRC 900.200 (c)(A)(i)(a), to increase the display surface on an existing freestanding sign to 548 square feet in size, for property approximately 48 acres in size zoned CR (Retail Commercial), and located at 827-955 Lancaster Drive NE (Willamette Town Center).

DATED: October 21, 2020



James K. Brewer, Hearings Officer