

**SUPPORT
APPEAL**

APPEAL OF NW DIST ASSOCIATION - BLOCK 290
FOR DEVELOPMENT AT 1417 NW 20TH AVE- LU 16-100496 DZM MS

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME.

Number	Name (please print)	Address & Zip Code (optional)	Email (optional)
1	Homer Williams Homer Williams	1308 NW Everett St Portland, OR 97209	
2	Sarah Beaubien	4185 Highway 101 North Tillamook, OR 97141	
✓ 3	Suzanne Lennard	1209 SW 6 th Ave #404 Portland OR 97204	Suzanne.Lennard @ LivableCities.org
✓ 4	Ron Walters	2057 NW Overton St Portland, OR 97209	
✓ 5	RICK McLAELSON	906 NW 23 rd Ave 97210	rick@ICR.PDX.COM
✓ 6	Erin Riddle	906 NW 23 rd Ave, OR 97210	erin@klikconcepts.com
✓ 7	Stephen Ramos	2454 NW Westover Rd.	
8			
9			
10			

**OPPOSE
APPEAL**

APPEAL OF NW DIST ASSOCIATION - BLOCK 290
FOR DEVELOPMENT AT 1417 NW 20TH AVE- LU 16-100496 DZM MS

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME.

Number	Name (please print)	Address & Zip Code (optional)	Email (optional)
✓ 1	JULIE LIVINGSTON (CHAIR DESIGN COMM.)		
✓ 2	Homen Williams	1308 MW EVERETT	
✓ 3	Sarah Beaubien	4185 Highway 101 NORTH TILLAMOOK, OR 97141	
✓ 4	Garrison Creemer		
5			
6			
7			
8			
9			
10			

Submitted
by
Homer
Williams
10/12/17





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Making Cities Livable Publications

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Lennard (Portland)

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Dr. Sven von Ungern-
Sternberg
Regierungspräsident
State of South-Baden
Freiburg i.B. GERMANY
www.livablecities.org

October 12, 2017

Re: In support of NWDA Appeal on LUR 16-100496
Block 290W – Courtyard or square?

Dear Mayor Wheeler and Commissioners,

1. I am Suzanne Lennard, an expert on neighborhood squares. I have published books and articles defining what makes a successful square, and I have been involved in the Conway development for 7 years.
2. The Conway Master Plan requires a Square on this site, not a courtyard. What is the difference?
3. A neighborhood square is the community's living room. It welcomes everyone in the community passing through, serendipitous meetings, children playing, people shopping, sitting at cafes and restaurants, and just hanging out.
4. Neighborhood squares fulfill numerous social functions – preventing loneliness, teaching children social skills, building social networks, and generating community.
5. The LRS design is a housing project with a courtyard, NOT a neighborhood square – and I will tell you why.
6. The proportions of a square are absolutely critical. On a square, buildings are approximately one third the width of the square. This creates a hospitable “sky-view island” from which it is possible to see the sky above the buildings in every direction.
7. Here is an example of a very successful square, exactly the same size as the required area of Slabtown Square – 16,000 square feet. Plaça de John Lennon in Barcelona is surrounded by buildings on all sides, and has entry points at each corner so paths cross. It has a large, sunny “sky-view island” in the middle (shown in purple).
8. This is Plaça de John Lennon. As you can see, it is very popular. It is surrounded with local shops, services, cafes and restaurants with residential above.
9. The six-story buildings are stepped back above the fourth floor, ensuring sunlight, and protecting the “sky-view island”.

See page 2



Page 2
Crowhurst Lennard
October 12, 2017

10. The LRS design fails to create a square for the following reasons:
 - The building forms a barrier to residents living to the north and west, preventing access to the square from those directions, and thus preventing people's paths from crossing
 - The 7-story buildings are too high, given the 100 feet width of the courtyard. They block out the sun for the majority of the day, and they reduce the "sky-view island" (purple) to almost zero
 - The low ceilinged tunnel beneath the building to the park (10 feet lower than required in the Master Plan) would be oppressive, and encourage the homeless, and anti-social behavior
 - Approaching from the south (Pettygrove) the space appears to be a dead end, and this deters exploration.
 - It also appears to be a private courtyard belonging to the housing project. The North end of the space is dominated by the private lobby, and the private apartments loom above to 7 stories.
11. This is a housing project with a courtyard – NOT a neighborhood square.

Thank you for your attention to this unique opportunity to create a neighborhood square. Planners, urban designers, and city leaders around the country are watching to see what Portland will do.

Yours sincerely,

Suzanne H Crowhurst Lennard

Suzanne H. Crowhurst Lennard, Ph.D. (Arch.)
Director and Founder, International Making Cities Livable.

290W – Courtyard or square?

In support of NWDA Appeal on LUR 16-100496



Suzanne H. Crowhurst Lennard Ph.D. (Arch.)

Director, International Making Cities Livable Conferences

Suzanne.Lennard@LivableCities.org

The Master Plan requires a
SQUARE for the neighborhood
(not a courtyard)





A Neighborhood Square is the community's living room



Social functions of Neighborhood squares:

- Preventing social isolation
- Teaching social skills
- Building trust
- Cultural exchange
- Information exchange
- Social networks
- Community
- Equality
- Sociability



Housing project with courtyard,
not a neighborhood square

Proportions of squares



Buildings are approx. one third width of square.
This creates a “sky-view island” Alberti

Scale: 0' 20' 40'

N



↑ 4 pedestrian entries so paths cross



 Building Footprint
  Plaza
  Skyline not visible at 50° line of sight



Plaça de John Lennon



Ice Cream Shop
Uluru



Gallery
Workers Barcelona

Plaça de
John Lennon

Computer Repair Service
El Mac Barcelonès

Ideàtica

Carrer de Ramis

Plaça de John Lennon



Plaça de John Lennon

Courtyard, not square

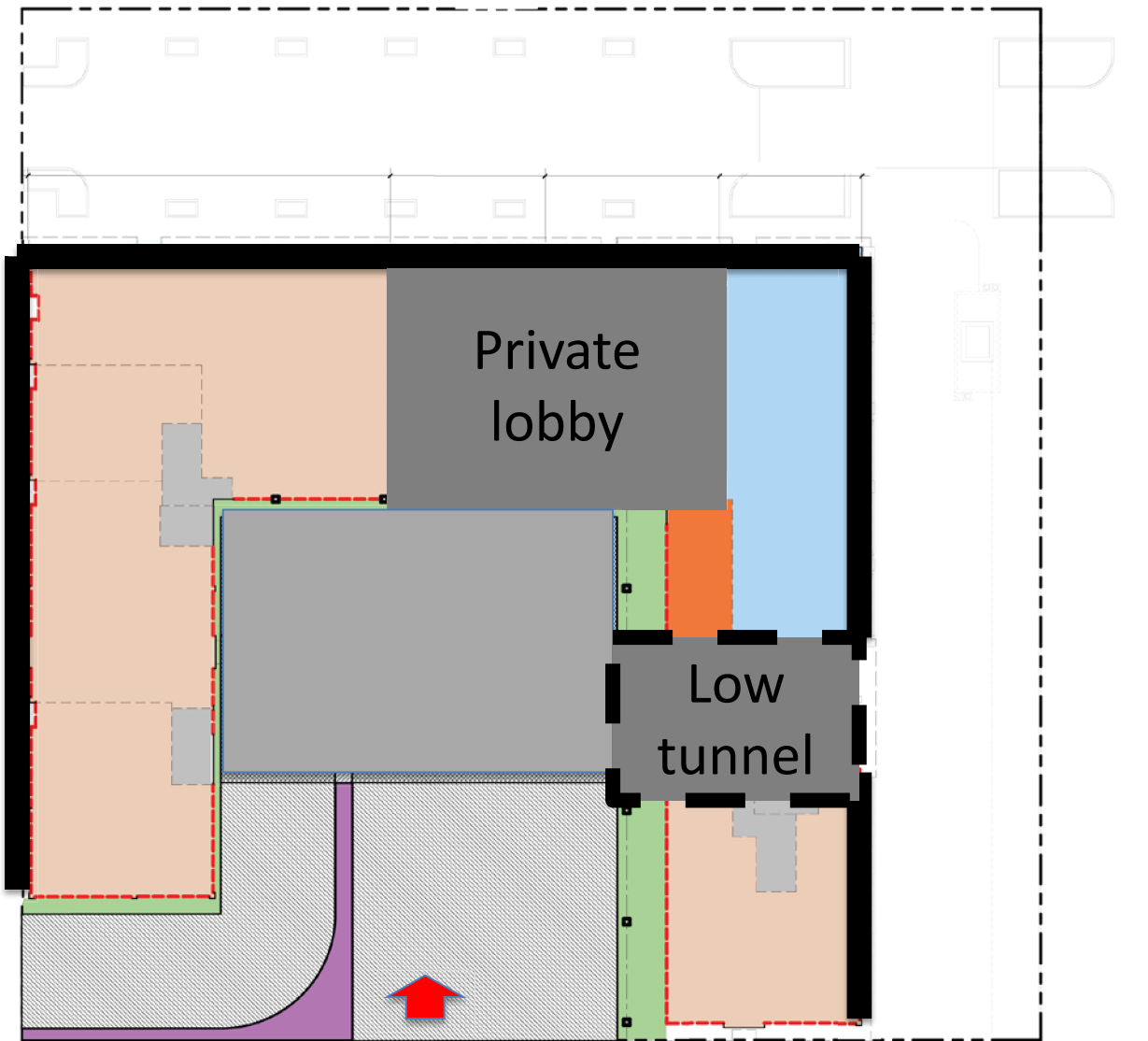
Closed barrier
to residents
north & west

Buildings too
high to allow
sun access &
view of sky

Inhospitable low
ceilinged tunnel

Private lobby
dominates

Entrance



0' 20' 40'



Public Square

Ground Floor Residential
Active Use - Facing Square

Ground Floor Residential
Active Use - Live/Work Units

Exterior Ground
Floor Wall

Ground Floor Retail

Neighborhood Facility

Building Services and
Vertical Circulation

Exterior Ground
Floor Glazing

Skyline not visible
at 50° line of sight

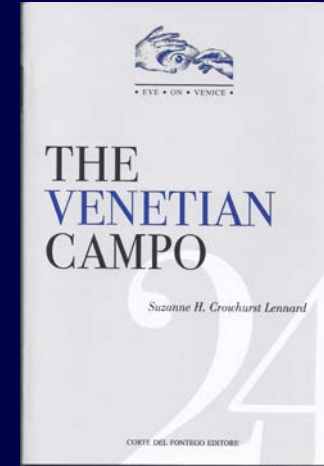
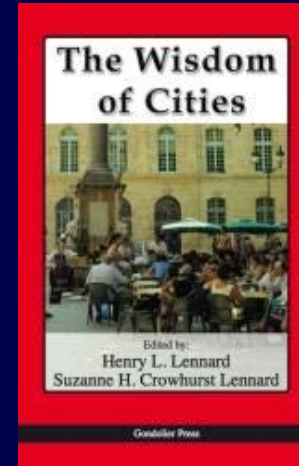
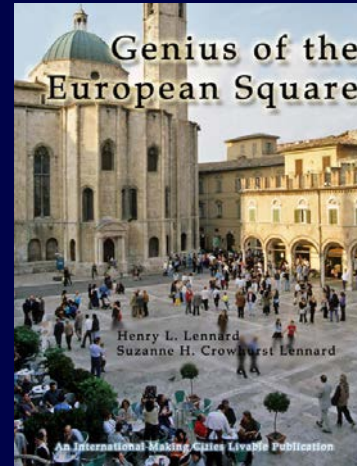
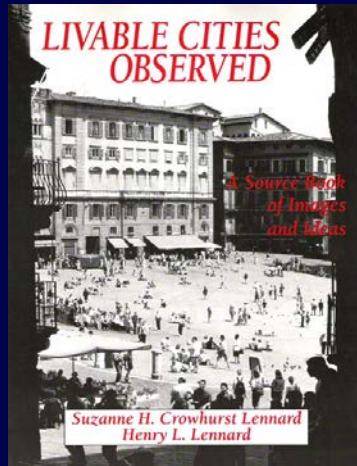
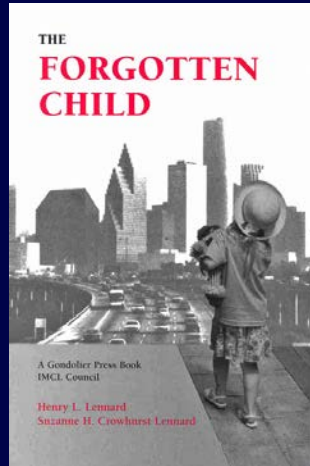
Skyline is visible at
50° line of sight





This is a housing
project with a
Courtyard
- not a
Neighborhood
Square





Contact:

Suzanne H. Crowhurst Lennard Ph.D. (Arch.)

Director, International Making Cities Livable Conferences

Suzanne.Lennard@LivableCities.org



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October 11, 2017

Re: In support of NWDA Appeal on LUR 16-100496
Block 290W – Courtyard or square?

Dear Mayor Wheeler and Commissioners,

As an expert on neighborhood squares, and former professor of social aspects of architecture and urban design, I have been involved with the Conway development for 7 years. I was asked to serve as an expert advisor to the NWDA Square Subcommittee, meeting almost every week for two years to advise on the design of Slabtown Square.

I strongly urge you to support NWDA's Appeal to reject the Design Review Commission's decision for the reasons stated below.

Yours sincerely,

Suzanne H Crowhurst Lennard

Suzanne H. Crowhurst Lennard, Ph.D. (Arch.)
Director and Founder, International Making Cities Livable.

1. **The LRS design fails to fulfill the Primary function of 290 West, consistently identified in the Master Plan, as "Square and associated development"¹, or "Square and potential associated development"².** Buildings on this block are intended to be of secondary importance. The LRS design treats the primary purpose of the site as a normal housing project with a courtyard.
2. **Social functions of the square:** The Master Plan states that the "flexible"³ neighborhood square, open to the public, must support "everyday use"⁴ as a gathering place⁵ for community social life, "commerce, activities, and events such as farmers/public markets, dining, fairs, art shows, and small musical performances, etc."⁶

See page 2

¹ Master Plan map 02-2, 02-5, 02-6

² Master Plan map 05-9

³ Master Plan 7.B.6

⁴ Master Plan, p. 72

⁵ Master Plan, p. 72

⁶ Master Plan 7.B.6



Page 2
Crowhurst Lennard
October 11, 2017

The square is intended to be like a European-style neighborhood square, the community's living room, supporting the development of social ties and strengthening community. It is intended to be the beloved heart of Slabtown, not only a destination, but also facilitating serendipitous meetings among those who pass through the square to work, school, etc. The LRS project fails to create a pleasant square that would fulfill these social functions.



3. The space designed by LRS has the proportions of a private courtyard, not a public square⁷. To create a hospitable square, the relationship of a square's horizontal dimensions to the height of buildings is absolutely critical. A small neighborhood square must be surrounded by low buildings; large squares may be surrounded by taller buildings. According to both Alberti⁸ and Gehl's angle of vision theory⁹ building heights should be approximately one third of the width of the square open to the sky. The 7 story buildings in the LRS design are more than two thirds the width of the open space.



A neighborhood square requires a "sky view island" approximately one third the width of the square, from which it is possible to view the sky above the buildings in every direction. If the sky cannot be seen above the surrounding

buildings, the space seems oppressive¹⁰.

See page 3

⁷ "If the surrounding buildings are too low, the open space will appear too large; if they are too high, the space would be unduly restricted." Kostof, Spiro. (1992) *The City Assembled. The Elements of Urban Form Through History*. London, Little Brown & Company. P. 137.

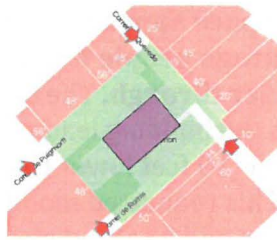
⁸ Alberti, quoted in Kostof, *ibid*.

⁹ Human beings have an angle of vision of approximately 50 degrees above the horizontal. Gehl, Jan. *Op. cit.* p. 39.

¹⁰ <http://www.livablecities.org/blog/designing-successful-neighborhood-squares-part-6-surrounding-building-heightsproportions>



Page 3
Crowhurst Lennard
October 11, 2017



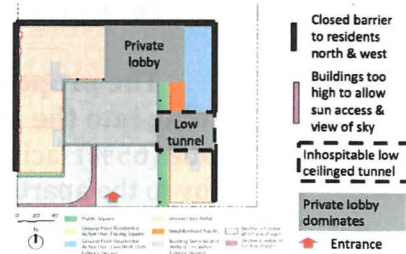
As an example of a successful neighborhood square exactly the same size (16,000 s.f.), Barcelona's Plaça de John

Lennon has an appropriately sized "sky view island" (in purple, left).



The LRS design does not (right).

4. **The LRS design of seven story buildings facing the courtyard are not human scale, as required in the Master Plan¹¹.** According to Jan Gehl, 'human scale' lies in our ability to see and interact with someone at a higher floor. Five floors is the threshold of human scale¹².



5. **Due to the height of the buildings, the LRS design fails to "optimize solar exposure" required in the Master Plan¹³.** Given the narrow East-West dimension of the space (100 feet), the buildings on either side are too high to admit morning and afternoon sun. This would deter use at those times when sunlight is most desired to make the space hospitable.

6. **The LRS design creates an unfriendly and impenetrable barrier to the community living to the north and west.** An essential function of a neighborhood square is that it can be traversed in all directions; this allows people's paths to cross on the square. Here, however, there is no way to enter the courtyard from north and west, and thus it will be impossible for people's paths to cross and for serendipitous meetings to take place.

See page 4

¹¹ Master Plan, p. 15: "provide human scale to buildings along sidewalks, squares and pedestrian accessways"

¹² Gehl, Jan. (2010) Cities for People. Island Press. P. 42. "...the connection between street plane and tall buildings is effectively lost after the fifth floor"

¹³ Master Plan 7.B.3



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Crowhurst Lennard
October 11, 2017

7. From Pettygrove, the proposed space appears to be a private dead end courtyard. This would discourage people from entering, rather than attracting people to meander through. The only other exit is through a low ceilinged tunnel beneath the building leading to the park, 60 feet in length, and only 13'9" to 16' high (10 feet lower than required by Con-way Master Plan Standard #10). This requested modification is purely to save the developer from having to add a second elevator (which a building of this size should have in any case), or from having to think of a more imaginative and better articulated design solution. The tunnel would be attractive for the homeless, and for antisocial behavior.

8. The proposed space would function as a private courtyard leading into the apartment building. The majority of the ground floor façade (65%) facing the entrance from Pettygrove consists of the private lobby to the apartment building. This contravenes the Master Plan and will discourage people from entering the space.

9. The LRS design fails to provide the required "strong emphasis on the quality of the pedestrian realm"¹⁴. In failing to fulfill the above requirements, this design does not exhibit "livability and positive urban qualities"¹⁵, or a "pleasant, rich and diverse pedestrian experience."¹⁶

10. By failing to meet the fundamental requirements, standards, guidelines, or spirit of the Master Plan, the proposed LRS design is a housing project with a courtyard. It is not a square.



¹⁴ Master Plan, p. 15

¹⁵ Master Plan, p. 15

¹⁶ Master Plan 8.A

Moore-Love, Karla

From: Michael James <mhjames@gmail.com>
Sent: Thursday, October 12, 2017 8:52 AM
To: Council Clerk – Testimony
Subject: Fwd: Reject the proposed design for Slabtown Square

----- Forwarded message -----

From: **Michael James** <mhjames@gmail.com>
Date: Thu, Oct 12, 2017 at 8:50 AM
Subject: Reject the proposed design for Slabtown Square
To: MayorWheeler@portlandoregon.gov, Commissioner Fish <nick@portlandoregon.gov>, chloe@portlandoregon.gov,
Amanda@portlandoregon.gov, dan@portlandoregon.gov

As a resident of NW Portland, I urge you to reject the proposed design for Slabtown Square. The NWDA appeal reflects the reviews of those of us who live in and cherish the character of our City.

Michael James
1930 NW Irving 97209
[503 504 4242](tel:5035044242)

Moore-Love, Karla

From: Bhatt, Pooja
Sent: Wednesday, October 11, 2017 2:03 PM
To: Fritz, Amanda
Cc: Adamsick, Claire; Moore-Love, Karla; King, Lauren
Subject: FW: Neighborhood appeal of the Slabtown Park adjacent mixed use development to City Council
Attachments: PP&R Memo on Block 290W May 18 2016.pdf

Commissioner,

I am sending this message regarding the Land Use case that is being appealed before Council tomorrow (item 1129). Per your request, I am also copying the Council Clerk and City Attorney on this so that this communication can be entered into the record.

Thank you!

Pooja Bhatt
Senior Policy Advisor
Office of Commissioner Amanda Fritz
Pronouns: She/her/hers
503-823-3229

To help ensure equal access to City programs, services and activities, the City of Portland will reasonably modify policies/procedures and provide auxiliary aids/services to persons who are differently abled. Call 503-823-3008, TTY 503-828-6868 or the Oregon Relay Service: 711 with such requests or visit <http://www.portlandoregon.gov/bibs/article/454403>

-----Original Message-----

From: Horner, Brett
Sent: Tuesday, October 10, 2017 4:11 PM
To: Bhatt, Pooja <Pooja.Bhatt@portlandoregon.gov>; Villalvazo, Ramiro <Ramiro.Villalvazo@portlandoregon.gov>
Cc: Lam, Trang <Trang.Lam@portlandoregon.gov>; Adamsick, Claire <Claire.Adamsick@portlandoregon.gov>
Subject: RE: Neighborhood appeal of the Slabtown Park adjacent mixed use development to City Council

Pooja, that is correct. We had agreed to having the developer's building move 15 feet closer to the park originally in 2016, per Mike's and Commissioner's review. Then again in May 2017 after the project was redesigned at the neighborhood's and Design Commission's requests.

Moving the building closer to the park allows the publicly-accessible, but privately owned and maintained plaza that the neighborhood wanted, to be bigger and also meet the size criteria desired by the NWDA neighbors. In other words, the amount of public open space is not appreciably diminished overall - the open space that would have been at the western edge of the future park simply shifts westward into the plaza space as part of the developer's building.

I think it's important to note that the City significantly benefits by having the plaza space privately maintained as it keeps us from having an on-going O&M commitment of General Fund. The plaza is open to the public and will feel public.

I am attaching the letter we sent earlier this year.

Brett Horner

Planning Manager | Parks & Trails Planning Portland Parks & Recreation
503-823-1674

-----Original Message-----

From: Bhatt, Pooja

Sent: Tuesday, October 10, 2017 1:48 PM

To: Villalvazo, Ramiro <Ramiro.Villalvazo@portlandoregon.gov>

Cc: Lam, Trang <Trang.Lam@portlandoregon.gov>; Horner, Brett <Brett.Horner@portlandoregon.gov>;

Adamsick, Claire <Claire.Adamsick@portlandoregon.gov>

Subject: RE: Neighborhood appeal of the Slabtown Park adjacent mixed use development to City Council

Thanks, Ramiro and Brett. I'm adding Claire to this to keep her in the loop since she typically tracks land-use cases for our office and will be prepping the Commissioner for this.

Brett, I just wanted to confirm that there was no change in the PP&R position on this since we last spoke about this in July. I do know that you submitted a letter of support many design iterations ago and that the design has changed substantially. I recall that PP&R did not feel it necessary to weigh in as the design involved. My understanding is that PP&R feels it should be neutral on this because there is no real change to the access to the park - is that right? Is there an encroachment to the park in the latest design?

Claire,

In your writeup, you may want to include some of this as a reminder. I shared this with her when we met in August.

-Currently, there is no signed DA between Conway/XPO and PP&R for the park development. It is assumed that XPO is wanting to finalize their development prior to signing the DA.

- PP&R submitted a support letter for a Conway design earlier in the year. I will get you a copy.

Thank you!

Pooja Bhatt

Senior Policy Advisor

Office of Commissioner Amanda Fritz

Pronouns: She/her/hers

503-823-3229

To help ensure equal access to City programs, services and activities, the City of Portland will reasonably modify policies/procedures and provide auxiliary aids/services to persons who are differently abled. Call 503-823-2036, TTY 503-823-6868 with such requests or visit <http://www.portlandoregon.gov/bibs/article/454403>

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Письмовий або усний переклад | Turjumida ama Fasiraadda

-----Original Message-----

From: Villalvazo, Ramiro

Sent: Monday, October 09, 2017 7:20 PM

To: Bhatt, Pooja <Pooja.Bhatt@portlandoregon.gov>

Cc: Lam, Trang <Trang.Lam@portlandoregon.gov>; Horner, Brett <Brett.Horner@portlandoregon.gov>

Subject: FW: Neighborhood appeal of the Slabtown Park adjacent mixed use development to City Council

Hi Pooja,

Sharing so Comm. is aware of hearing this Thursday.

Thank you.

Ramiro Villalvazo, FASLA, PLA
Assets & Development Division Manager
Portland Parks & Recreation
503-823-5590 (office)

-----Original Message-----

From: Horner, Brett

Sent: Monday, October 09, 2017 2:49 PM

To: Abbate, Mike <Mike.Abbate@portlandoregon.gov>; Villalvazo, Ramiro
<Ramiro.Villalvazo@portlandoregon.gov>

Cc: Lam, Trang <Trang.Lam@portlandoregon.gov>

Subject: Neighborhood appeal of the Slabtown Park adjacent mixed use development to City Council

All-

The Northwest neighbors Association (NWDA) has appealed the unanimous design commission approval of the mixed-use building to the west of our future Slabtown Park site.

The hearing is at City Council this Thursday Oct. 12 at 2pm. I was planning to go, but was wondering if Mike or Ramiro might want to be there too. I do not plan to offer any testimony, only speak if there are questions.

Ramiro, Pooja should probably be briefed that this is coming to Council if she hasn't already asked about it. PP&R issued a letter of support to the developer, Guardian, earlier this year when it went to design commission.

Thanks,
Brett

Sent from my iPad



PORTLAND PARKS & RECREATION

Healthy Parks, Healthy Portland

MEMORANDUM

Date: May 18, 2016

To: Paul Scarlett, Director of the Bureau of Development Services (BDS)

From: Mike Abbate, Director of Portland Parks & Recreation (PP&R)

RE: Land Use Review LU 16-100496 DZM MS – Block 290W

Portland Parks & Recreation (PP&R) is pleased to have the opportunity to comment on the pending design review of the proposed building on Block 290W.

PP&R supports the proposed design of Block 290W with an enhanced visual and physical connection between the public plaza and the future park site. This stronger connection between the plaza and park will allow for the potential of coordinated programming and a broader spectrum of available open space options in this urbanizing environment.

The park site was originally conceived to include the entire pedestrian accessway, an additional 60' feet in a east-west direction between the park site and the adjacent development parcel front NW 21st Avenue. Although the current proposal does not include this acreage, PP&R supports the proposed acreage (approximately one acre) and configuration (200 feet x 206 feet) of the park site which will allow for the focused development of a community open space that is dominated by softscape and landscaping. In an area that is already park deficient and increasing rapidly in density, a green open space will be a highly sought after community amenity. This park will be roughly similar in size to Jamison Square Park and Tanner Springs Park in the Pearl District.

PP&R also supports the proposed treatment of the pedestrian accessway that will integrate the park and private development site with a stepped edge. PP&R requests that an ADA access ramp be added from Block 290W into the future park, so that visitors coming east out of the private development courtyard do not have to travel north to NW Quimby Street or south to NW Pettygrove Street to access the park. This ramp could be designed after the park concept design is finished, now anticipated for Spring 2018. The ramp could be built around the time of the park construction, expected in Spring 2019.

Administration

1120 S.W. 5th Ave., Suite 1302
Portland, OR 97204
Tel: (503) 823-7529 Fax: (503) 823-6007

www.PortlandParks.org
Amanda Fritz, Commissioner
Mike Abbate, Director



Sustaining a healthy park and recreation system to make Portland a great place to live, work and play.

Since the park design, grades, and landscaping may influence what is built in the zone between the western edge of the park and the eastern edge of the proposed block 290W development, PP&R recommends that the easternmost twenty (20) foot wide section of block 290, exclusive of required stormwater treatment areas, be designed after the park concept design is complete, and built at or shortly before the time of the park construction in order to allow for maximum design flexibility and a seamless integration of the park and the development parcel.

A strong visual and physical knitting together of the east edge of the private development with the park is critical. PP&R is very supportive of the planned retail uses on the ground floor of the block 290W building and is excited about the benefits this will have for the park. A similar adjacency occurs at Jamison Square Park and the retail has had a positive impact on the park.

Finally, PP&R strongly supports and appreciates the development of NW Quimby Street, which will have a high level of amenity, and allow for flexible uses such as festivals and temporary events. PP&R is also supportive of the proposed driveway access off of NW Pettygrove Street to the block 290W development.

We thank XPO, GRES, the design team, and the neighborhood for a well thought out development and a project that will truly be an asset to the existing neighborhood, and to the expected future residents of the area. Our Planning Manager, Brett Horner, will attend the May 19th Design Commission meeting to answer any questions on behalf of PP&R.

Thank you for your consideration.

Moore-Love, Karla

From: Joseph Schaefer <joseph.schaefer@jordanramis.com>
Sent: Wednesday, October 11, 2017 8:34 AM
To: Adam, Hillary
Cc: Tim Ramis; Ben Riemer; Greg Mitchell; Tom Brenneke; Briana Murtaugh; Moore-Love, Karla
Subject: Block 290 North Elevation Option B
Attachments: page 4.6b from 216209_BLK290_DR Submittal Set.pdf

Hillary and Karla:

The Design Commission went with Option B for the north elevation (attached), which adds articulation to the massing. This creates 430 square feet of additional floor area, as shown in the table below.

The Design Commission decision explains that Option B is preferred, although it does not describe the square footage impact, and thus the square footage numbers in the decision and our hearing memo sent yesterday are a little short. Thus we write to ask that Hillary's presentation explain to the city council that the Design Commission selected this option, so there is a 430 square foot bump up to 182,706 square feet of floor area, though we remain over 17,000 square feet below the maximum floor area for the site. And Karla, please add this email to the record.

Hopefully this makes sense, and please call if there any questions or concerns.

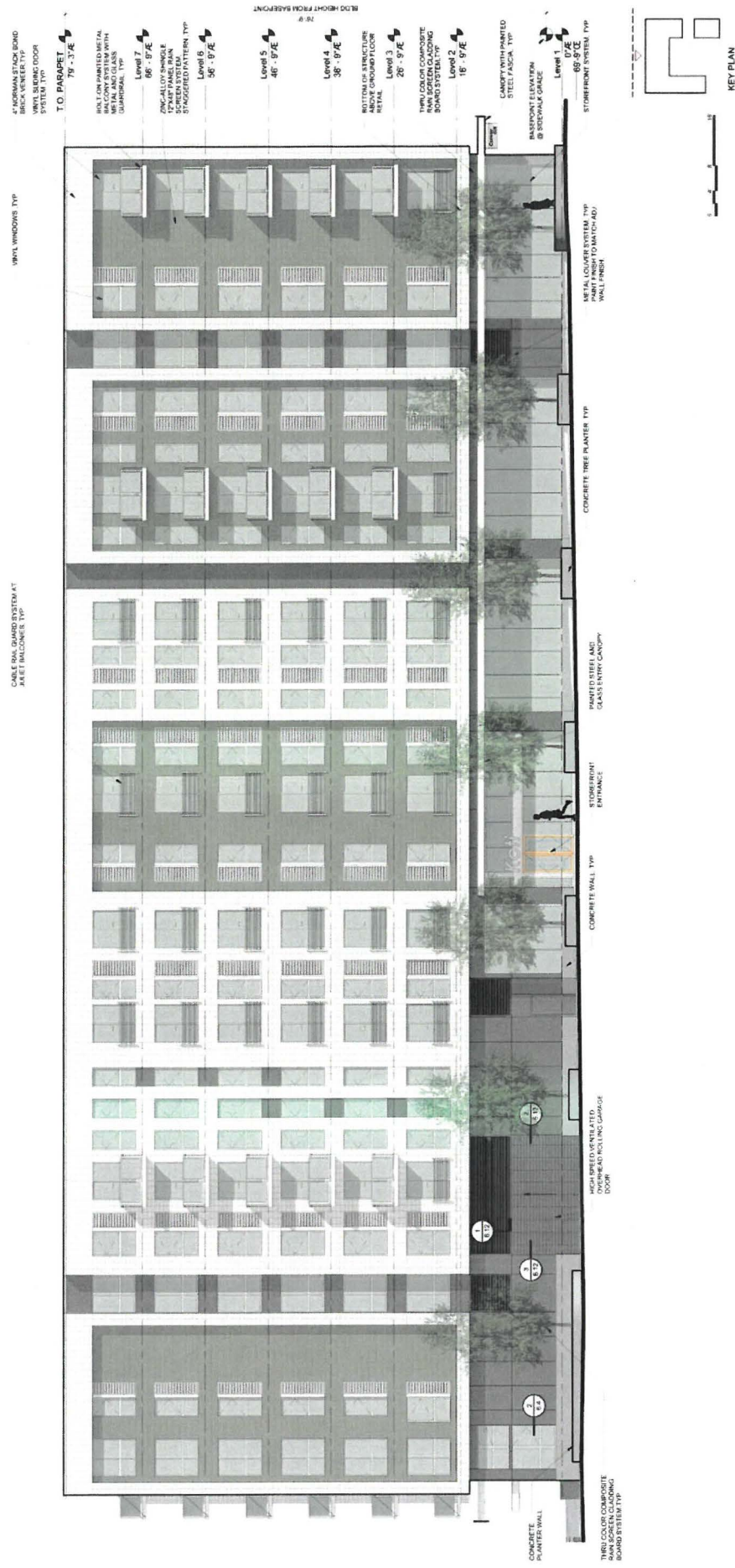
Thanks

JOSEPH SCHAEFER | Land Use Planner
Jordan Ramis PC | Attorneys at Law
Direct: 503 598-5584 Main: 503 598-7070
Cell: 503 819-4764

FAR Building Areas	
<u>Ground Floor</u>	
Enclosed Area	22,408
Covered Exterior Plaza Area	2,922
Ground Floor Total	25,330
<u>Upper Floors</u>	
Second Floor	27,514
Third Floor	27,503
Forth Floor	27,503
Fifth Floor	26,610
Sixth Floor	24,123
Seventh Floor	24,123
Upper Floor Total	157,376
Building Total Area	182,706

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Moore-Love, Karla

From: Joseph Schaefer <joseph.schaefer@jordanramis.com>
Sent: Tuesday, October 10, 2017 3:24 PM
To: Adam, Hillary; Moore-Love, Karla
Cc: Tim Ramis
Subject: Block 290 - Record Submittal for Item 1129; LU 16-100496 DZM
Attachments: 2782768_5.pdf

Hillary and Karla:

Here is another item for the record, which is a memorandum summarizing the appeal issues. Hillary please feel free to circulate this to council and BDS staff ahead of Thursday's hearing.

Thanks.

JOSEPH SCHAEFER | Land Use Planner
Jordan Ramis PC | Attorneys at Law
Direct: 503 598-5584 Main: 503 598-7070
Cell: 503 819-4764

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JORDAN RAMIS PC

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LEGAL MEMORANDUM

TO: Portland City Council

FROM: Tim Ramis and Joseph Schaefer

DATE: October 10, 2017

RE: Block 290 Appeal; LU-16-100496 DZM; Council Agenda Item 1129

NWDA's numerous appeal issues broadly fall into four categories: the building is too large; the square is more akin to a private courtyard than a public square; the building cannot extend 15 feet east into the north-south access way or use Quimby for vehicle access; and procedural arguments. These are summarized in **bold** and responses follow in regular font.

- 1. The building is too large: the maximum floor area is exceeded; the west wing exceeds the maximum height; the top floors must be set back 5 feet; the east breezeway must have a 25 foot height.**

Floor Area. The Design Commission correctly calculated the maximum floor area based on the 66,820 square foot site (257 ft x 260 ft), times the 3:1 FAR, which yields a maximum floor area of 200,460 square feet. The building is only 182,276 square feet.

NWDA miscalculates the maximum floor area. It begins with erroneous assumptions that the site is only comprised of a 200 x 200 foot block, less the 3 foot dedication for NW 21st and less the 16,000 square foot public square, so the "remaining buildable portion of the development site is 23,400 sf." Extending that buildable area up by the number of floors assumed under the height standards, it concludes the maximum floor area possible is 150,300 square feet. (NWDA letter of May 19, 2017.)

However, that is not the method for calculating maximum floor area; the correct method is net site area after the dedication for NW 21st, times the floor area ratio, as done by the Design Commission. It correctly understood that the site is all private property, and although public

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access easements will cover most of the site, those areas are not deducted from the maximum floor area calculation. See Title 33.910.030.

West Wing Roof Amenity. The west wing height standard is satisfied except for the rooftop amenity space which is glazed and set back from the south and east wall lines to reduce visual and shadow impacts. See Sheet 4.23. The sheltered portion of the amenity space only occupies a portion of the roof area. The Design Commission correctly found this active, furnished space eliminates the concern regarding the barren rooftop that would otherwise be viewed from the other wings and neighboring buildings. Please note the previous design placed the amenity space on the ground floor of the north wing; which raised objections at the Design Commission about insufficient retail space, and precipitated moving the amenity to the roof.

Top Floor Setback. The building is 77 feet tall, meaning if it were just two feet shorter, this modification would not be necessary. At the June 8, 2017 hearing the Design Commission noted stepping back the top floor would disrupt the design concept of brick frames and tubes, which lend to the overall coherency of the design. They also expressed support for the simplicity of the design with the singular articulated frame of green zinc-alloy panels at the east. The Commission rightly concluded that design coherency warrants this modification.

East Breezeway Height. This open public space has heavily glazed retail on the south side with more glazing and a mural on the north side, which opens views between the square and the outer perimeter of the building on all sides. The Design Commission found benefit in the mural as a sheltered focal point which speaks to the heritage of the Con-way Master Plan area.

The Design Commission also found that Guideline D8 (Interest, Quality, and Composition) is better met by allowing the linear brick design to extend the full length of the east wing rather than abruptly jogging for additional height at the breezeway. The design provides a generous human scale despite being lower than the standard, so the modification was approved.

2. The square is more akin to a private courtyard than a public square.

There is an inherent tension between the desire to activate the square with adjacent commercial uses and the concern that in so doing, the atmosphere feels less public. The Design Commission agreed this layout strikes the proper balance by opening up the square directly to the intersection of 21st and Pettygrove, welcoming pedestrians in from the bus stop area (which will become a streetcar stop), and creating more sunlight in the afternoon when the square is busiest, whereas the prior designs enclosed it more completely. The Commission also noted the retail spaces will spill out around the square with outdoor dining. Additional public features include large areas of open space with level paving, and a full service bike station and pet wash at the northeast corner of the square.

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3. The building cannot extend into the north-south accessway and Quimby cannot be used for vehicle access.

The appeal misconstrues the Con-way Master Plan and its flexibility. The Design Commission understood the competing goals of the two public spaces and the private development required to support them, and found the eastward extension allows for a wider public square resulting in a square more proportionate to the building that supports it.

For driveway access, previous designs placed the driveway on Pettygrove, and neighbors objected because this is classified as a green street with a planned bike lane. The north-south pedestrian access and park are on the east, and on the west NW 21st is a transit street that will have a streetcar stop so driveways are prohibited. These constraints leave only Quimby for vehicle access. NWDA essentially argues the site should not have any driveway access, but the project is not feasible with a service entrance and parking, and prohibiting vehicle access to the site would inadvertently back the city into a takings claim.

4. Procedural: The Design Commission erred by focusing on the incremental nature of the modifications; the findings fail to respond to each standard; the revised design required a new application; and under the 120-day rule city lacks authority to extend the application beyond March, 2017.

Modifications. The Design Commission correctly evaluated each requested modification against each criterion; however, NWDA seeks to impose a new criterion to compel evaluation of the cumulative impacts of multiple modifications, which is a fundamental legal error. The City Council can only evaluate the modification requests under the existing criteria.

Findings. The Design Commission decision focused on responding to the numerous issues raised by NWDA. The decision did aggregate findings for some standards and criteria, due to staffing constraints. The aggregation is not prohibited. Nevertheless, to respond this NWDA concern, if the appeal is denied the applicant's attorney (who is required to draft the city council findings as per Title 33.730.030.H.6.b) will break the decision down into individual findings for each standard and criterion. In essence, this argument only regards the form of the decision, not the substance.

New Application. NWDA insists the application should have been terminated when the design was substantially revised, as per Title 33.700.080.B. However that subsection does not discuss termination of an application; rather it describes "the regulations in effect when the original complete application was received." Because there have been no changes to the criteria since the application was first deemed complete, filing of a new application would make no difference in the applicable criteria.

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Contrary to NWDA's claims, filing a new application would not make the inclusionary housing rules applicable to the application. This site is within the Con-Way Master Plan, and therefore this application is governed by the zoning code regulations in effect when the master plan application was complete (April 24, 2012), which will govern during the ten year life of the master plan. This was recently confirmed by the City in the zoning confirmation letter of June 6, 2017 which states: "Portland Zoning Code regulations that become effective after the application for the Northwest Master Plan was filed (and deemed complete within 180 days), such as those related to Inclusionary Housing Zoning Code Project or the Commercial Mixed Use Zone Project, do not apply to uses and development allowed by the Master Plan."

Nevertheless this project is participating in the MULTE affordable housing program, which was supported by the Housing Bureau and formally approved by the City Council in April, 2017.

120-Day Rule. In addition, NWDA asserts that the latest possible deadline for the city to make its final decision was 365 days from application completeness (March 28, 2017), under ORS 227.178(5). However, as explained by LUBA:

ORS 227.178(5) does not say that an extension beyond 365 days divests the city of jurisdiction over the application or "voids" the application, and in fact the relevant statutes do not specify what consequences, if any, flow from a written extension of the 120-day deadline beyond the period prescribed in ORS 227.178(5).... an applicant is free to waive the 120-day deadline entirely and give up its mandamus remedies under ORS 227.179(1) as a result. ... Nothing in ORS 227.178(5) or anything else cited to us prohibits such voluntary waiver or imposes any express limitation on the city's ability to act and rely upon such a waiver.

Leathers Oil Company v. City of Newberg, 63 Or LUBA. 176, 198 (2011).

Moore-Love, Karla

From: Joseph Schaefer <joseph.schaefer@jordanramis.com>
Sent: Tuesday, October 10, 2017 2:27 PM
To: Moore-Love, Karla
Cc: Tim Ramis; Adam, Hillary
Subject: Block 290 - Record Submittal for Item 1129; LU 16-100496 DZM
Attachments: Zoning Conf. and housing approval.pdf; Plat and Street Map.pdf

Good afternoon Karla. On behalf of the applicant, we are submitting the attached documents for the city council record ahead of Thursday's hearing.

Let us know if there are any questions –

Thanks

JOSEPH SCHAEFER | Land Use Planner
Jordan Ramis PC | Attorneys at Law
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Cell: 503 819-4764

Portland OR | Vancouver WA | Bend OR
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City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Ted Wheeler, Mayor
Rebecca Esau, Interim Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

June 6, 2017

Dana Krawczuk
PERKINS COIE
1120 NW Couch, 10th Floor
Portland, OR 97209

Re: **17-154744 PR**

Zoning Confirmation for property located at 2169 NW Thurman St, 1417 NW 20th Ave, 1621-1717 NW 21st Ave, 2055 NW Savier St, 2175 NW Raleigh St, 2170 NW Raleigh, 2055 NW Savier St, 1635 NW 19th Ave.

Legally described as BLOCK 16 TL 1600, BLACKISTONES ADD; BLOCK 261 LOT 5&8&9&11-18 TL 3500, COUCHS ADD; INC PT VAC ST LOT 7&10&11 BLOCK 262 INC PT VAC ST LOT 14 BLOCK 262 INC PT VAC STS LOT 15 BLOCK 262 INC PT VAC ST LOT 16-18 BLOCK 262, COUCHS ADD; BLOCK 290&291 TL 100, COUCHS ADD; INC PT VAC STS BLOCK 292, COUCHS ADD; BLOCK 293 TL 2300 LAND & IMPS SEE R529517 (R180230571) FOR OTHER IMPS, COUCHS ADD; LOT 1-3 BLOCK 294 INC PT VAC ST LOT 4&5&8 BLOCK 294 LOT 6&7&10 BLOCK 294 LOT 11&14 BLOCK 294, COUCHS ADD; BLOCK 294 INC PT VAC ST LOT 9&12 INC PT VAC ST LOT 13&18 LOT 15-17, COUCHS ADD; BLOCK 296 LOT 1-4 EXC PT IN ST LOT 5-10, COUCHS ADD; BLOCK 296 LOT 11-18, COUCHS ADD; BLOCK 295 LOT 1-18 TL 2700, COUCHS ADD; BLOCK 293 TL 2300 OTHER IMPS SEE R141301 (R180230570) FOR LAND & IMPS, COUCHS ADD; BLOCK 296 LOT 1-10, COUCHS ADD.

State Identification # 1N1E28CD 01600, 1N1E28DC 03500, 1N1E28DC 03900, 1N1E33BA 00100, 1N1E28CD 02400, 1N1E28CD 02300, 1N1E28CD 02800, 1N1E28CD 02900, 1N1E28CD 02500, 1N1E28CD 02600, 1N1E28CD 02700, 1N1E28CD 02300A1, 1N1E28CD 02500, 1N1E28CD 02500, 1N1E28CD 02500, 1N1E28CD 02500, 1N1E28CD 02500, 1N1E28CD 02500, 1N1E28CD 02500.

Tax Account # R080301300, R180223140, R180223300, R180230010, R180230390, R180230570, R180230750, R180230870, R180231250, R180231350, R180231070, R180230571, R180231250, R180231250, R180231250, R180231250, R180231250, R180231250, R180231250, R180231250.

Dear Dana Krawczuk:

You have requested zoning information for the above-referenced properties. The properties are located in the EX - Central Employment zone (Chapter 33.140 of the Portland Zoning Code), with a "d" Design Overlay Zone (Chapter 33.420) or in the IG1 - General Employment 1 zone (Chapter 33.140). All properties are in the Northwest Plan District (Chapter 33.562).

- The 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 IG1 zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. IG1 areas generally have smaller lots and a grid block pattern.
- The “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development are subject to design review.
- The Northwest plan district provides for an urban level of mixed-use development including commercial, office, housing, and employment. The regulations of this chapter promote housing and mixed-use development; discourage auto-oriented developments; enhance the pedestrian experience; and encourage a mixed-use environment and transit supportive levels of development in the area near the streetcar alignment.

These chapters, as well as the entire Zoning Code, can be found on line at www.portlandonline.com/zoningcode. The effective date of the specific regulations is found at the top of each page.

A search of Land Use Review history was conducted for this site. The following cases were found relating to this property.

- ZC 4684, PC 4910C, VZ 180-83 are prior reviews that are no longer relevant to this site.
- LUR 98-00588 AD – Block 16 (and the commonly owned parcels to the east that are not within the Master Plan) received an Adjustment approval for a reduction of the required parking lot perimeter landscaping.
- LU 06-157680 DZ – Block 293, the existing office building Adtech II, received Design Review approval for building signs.
- LUR 99-00473 AD – Block 293, the existing office building Adtech II, received an Adjustment approval for vehicles to enter the loading facilities in a reverse motion.
- LUR 99-00160 CLR – Block 293, the existing office building Adtech II, received a clarification of regulation, which concluded, “The exemption in PCC 33.920.240.D.1 means that headquarters offices built in conjunction with an industrial use on the site are considered an industrial use. As a result, the existing CNF headquarters office in Northwest Portland is an industrial use, and the primary use of the site for headquarters is an industrial use. As such, the proposed additional headquarters office at the CNF facility would also be permitted under PCC 33.920.240.D.1.”
- LU 12-135162 MS – Approval of a Northwest Master Plan including Blocks 16, 261, 262, 290, 291, 292, 293, 294, 295 and 296, subject to conditions.
- LU 15-142459 MS – Approval of an amendment to the Northwest Master Plan and approval of a Design Review.

In your application dated April 17, 2017 and addendum dated May 8, 2017, you asked the City to apply the Portland Zoning Code to determine the vesting status of the former Conway site (herein referred to as the “XPO site” and defined above). The 17.49 acre XPO site was approved as a master plan through a Northwest Master Plan Review (LU 12-135162 MS). The Master Plan became effective on October 2, 2012.

The application and addendum request the Bureau of Development Services (BDS) confirm the following regarding the Master Plan:

- *During the term of the Master Plan (October 2, 2012 to October 2, 2022), the uses that are allowed, applicable development standards, and sections of the Zoning Code that apply to*

development within the Master Plan are only those Zoning Code provisions, as modified by the Master Plan, that were effective on the date the Master Plan application was filed (April 24, 2012). Amendments to the Zoning Code that became effective subsequent to April 24, 2012 do not apply to development within the Master Plan during its term. As used here, "development" includes discretionary land use reviews, such as design review, and building permits.

- *We seek confirmation that, like other discretionary approvals contemplated in the Master Plan (such as design reviews), Master Plan Amendments and development pursuant to the Master Plan Amendments, are equally subject only to the applicable provisions of the Zoning Code that were in effect at the time of the Vesting Date. Further, these discretionary approvals that implement the Master Plan do not reset the Vesting Date to the date such amendment applications are submitted, but instead the Amendment application and subsequent development review applications remain subject to the initial and current Vesting Date.*

These confirmation requests lead to a series of questions requiring response. The questions are:

1. Are the uses allowed and development and design standards approved under the Northwest Master Plan for the XPO site vested in a prior version of the Portland Zoning Code?
2. Do approved Northwest Master Plan Amendments change the vesting status or vesting timeline of an approved master plan?
3. On what date did the Master Plan become vested?
4. What is the timeline covered by the Master Plan?
5. Is a building permit associated with a land use review approved during the timeline covered by the Master Plan, reviewed based on the version of the Portland Zoning Code in effect when a complete land use review was submitted or when the Master Plan was submitted?

Question #1

The first question concerns whether an approved Master Plan vests uses, development and design approved under it in the zoning regulations that were in effect when the application was filed on April 24, 2012. Portland Zoning Code (PZC) 33.700.090.A states "applications for building permits for development approved by a land use decision that has not expired are subject only to the regulations in effect on the date a land use application was filed with the City, as specified in 33.700.080.A.1". PZC 33.562.300.D.5 requires a Northwest Master Plan to identify, "how specific development and use proposals will be reviewed, and the standards, guidelines, and approval criteria used to evaluate each proposal." Based upon the authority in these Portland Zoning Code provisions, and the conditions and findings within XPO's Northwest Master Plan,¹ the uses allowed and development and design standards approved under the Northwest Master Plan for the XPO site are vested in the zoning regulations that were in effect when the land use review application for the Northwest Master Plan was filed, April 24, 2012. Portland Zoning Code regulations that become effective after the application for the Northwest Master Plan was filed (and deemed complete within 180 days), such as those related to Inclusionary Housing Zoning Code Project or the Commercial Mixed Use Zone Project, do not apply to uses and development allowed by the Master Plan. In this particular instance, BDS deemed the Master Plan application complete within 180 days of the initial submittal on April 24, 2012, which becomes the vesting date under the above analysis. See Response to Questions #3 and #5 below.

¹ Relevant findings and conditions are quoted in response to Question #5, as well as in your April 17, 2017 application, which along with your analysis therein are incorporated by reference.

Question #2

The second question concerns amendments to approved master plans and whether approved amendments change the vesting status or vesting timeline of an approved master plan. The Northwest Master Plan section of the zoning code found in PZC 33.562.300 provides a mechanism by which an approved master plan may be amended as specified in PZC 33.562.300.F. Your letter accurately states that one amendment to the Master Plan for the XPO site has already been approved (LU 15-142459 MS). Your letter also correctly notes that approved Master Plan anticipated amendments and included a Condition of Approval that states "amendments to the Master Plan are subject to the regulations in Section 8 of the Master Plan document". It is clear that the Northwest Master Plan section of PZC 33.562 Northwest Plan District as well as the Master Plan decision anticipated that over time amendments may need to occur. The regulations of the Northwest Master Plan do not state that amendments alter the vesting status or timeline approved through the land use review; therefore, the vesting status remains that same as described under Question #1 and the vesting timeline is not altered. Staff concurs with the statement in your addendum "accordingly, we understand that the Vesting Date for development within the Master Plan, and the findings, conclusions and legal support of it, are unaffected by Master Plan Amendments".

Question #3

The third question concerns the date on which the approved Master Plan became vested. PZC 33.700.090.A states that "applications for building permits for development approved by a land use decision that has not expired are subject only to the regulations in effect on the date a land use application was filed with the City, as specified in 33.700.080.A.1. PZC 33.700.80.A.1 states that "if, on the date the application is filed with the City, the application contains all the information stated in 33.730.060, Application Requirements, as well as any additional information required in the pre-application conference notes, the application will be processed based on the regulations in effect on the date the application is filed. The date the Master Plan for the XPO site became vested is the date the application for the land use review was submitted since the application was deemed complete within 180 days thereafter, or on April 24, 2012. Subsequently, land use review applications and building permits submitted in relation to the approved Master Plan will be reviewed based on the version of the Portland Zoning Code in effect on April 24, 2012.

Question #4

The fourth question concerns the timeline covered by the approved Master Plan. The land use review (12-135162 MS) clearly states that "Northwest Master Plan remains in effect for 10 years". PZC 33.730.030.G states "if no one appeals the decision, it is final and effective the after the last day to appeal". As noted in the Hearings Officer's decision, the last day to appeal was October 1, 2012. Therefore, the effective date of the Master Plan was October 2, 2012 and the timeframe is from October 2, 2012 to October 2, 2022.

Question #5

Question #1 confirms that land use review applications filed during the timeframe of the Master Plan are reviewed based upon the version of the Portland Zoning Code in effect on April 24, 2012. The final question concerns the review of a building permit associated with a land use review approved during the timeframe of the Master Plan and whether the building permit is reviewed based on the version of the Portland Zoning Code in effect when a complete land use review application was submitted or when the complete Master Plan Review application was submitted. The approved Master Plan states "the entire Con-way Master Plan property will remain subject to all applicable provisions of the current City of Portland Zoning Code, including the base zone regulations". The approved Master Plan Review also states "The general

proposal is to keep in place the existing development standards (with the exception of the Community Design Standards in Chapter 33.218) and design guidelines applicable to development proposals in the Northwest Plan District today and enhance their impact on development with additional development standards and design guidelines". The Master Plan also includes a Condition of Approval which states "Implementation of the Master Plan is subject to the process, standards and guidelines in Section 5 (Design Standards and Guidelines) of the Master Plan (Exhibit A.9), including: Existing Zoning Code standards that apply...". Based on this information it is clear the Master Plan intended for existing regulations and processes to apply to both land use review applications and the associated building permits during the timeframe of the Master Plan, with the existing regulations and processes being those regulations and processes in place when the complete Master Plan Review application was received on April 24, 2012.

Note that this zoning confirmation does not determine whether existing development on the site conforms to current zoning regulations. To make such a determination, a full plan check of as-built conditions is required. However, should the site contain legal nonconforming development (e.g. building setbacks, height, lot coverage, etc.), these nonconforming development rights are retained even if the buildings are destroyed by fire or other means beyond the control of the owner. These rights are lost if the nonconforming elements are intentionally removed or destroyed. Refer to Section 33.258.070 (Nonconforming Development) for additional information on nonconforming rights.

Certificates of occupancy are issued by the Records Section. Please call (503) 823-7660 for information.

This confirmation is based on information provided by you, as well as our review of zoning regulations, building records and land use case history. No site visit was conducted as part of this confirmation. The above information is current, but zoning regulations change over time; these changes may affect the use and/or development of the property. Please contact me at 503-823-6825 if you have additional questions.

Sincerely,



Matt Wickstrom
Senior City Planner

Enclosure: Site Map



PHB Portland Housing
Bureau

Mayor Ted Wheeler • Director Kurt Creager

421 SW 6th Avenue, Suite 500
Portland OR 97204
503 823 2375 phone
503 823 2387 fax
portlandoregon.gov/phb

July 7, 2017

Briana Murtaugh
Guardian Real Estate Services, LLC
760 SW 9th Ave, Suite 2200
Portland, OR 97205

Re: 10-Year Limited Tax Exemption for KOTI/Block 290; Tax IDs R672947

Dear Briana Murtaugh:

On June 29, 2016, the Portland City Council approved your application for a ten year property tax exemption under the City's Multiple-Unit Limited Tax Exemption (MULTE) Program (Code Chapter 3.103) for KOTI/Block 290. Please find a copy of the approved Ordinance attached. Subject to the conditions specified in this Ordinance, the tax exemption applies to the improvement value of the residential portion of the project. The Ordinance goes into effect 30 days after approval. Issuance of the project's building permit must occur after the effective date of the approval.

The earliest the exemption becomes available is July 1, 2018. ORS 307.612 explains that the first year of an approved exemption shall be the assessment year beginning January 1 immediately following the calendar year in which construction, addition or conversion is completed. Completion is determined by that stage in the construction process when pursuant to ORS 307.330, the improvement would have gone on the tax rolls in the absence of the exemption provided for in ORS 307.600 to 307.637 or, in the case of multiple unit housing that is or becomes subject to a low income housing assistance contract, the application is approved. This exemption is not the same as the exemption while construction is in progress which requires an application be submitted separately to Multnomah County.

You will need to sign an Extended Use Agreement for the affordable units which will be recorded on the title of the property. PHB will provide this document which will outline the ongoing compliance requirements of the exemption. This approval is subject to receipt of the remaining portion of the application fee due to PHB in the amount of \$16,000.

Please call me at 503-823-4469 if you have any questions.

Sincerely,

Dory Van Bockel, Housing Program Coordinator

Attachments: Approved Ordinance with Exhibit A

cc: Jason Baribeault, Multnomah County Assessor's Office

ORDINANCE No. 188339

***Approve amended application under the Multiple-Unit Limited Tax Exemption Program for Block 290/KOTI (Ordinance)**

The City of Portland ordains:

Section 1. The Council finds that:

1. On behalf of the City of Portland, the Portland Housing Bureau (PHB) administers the Multiple-Unit Limited Tax Exemption (MULTE) Program, authorized under ORS 307.600-307.637 and City Code Chapter 3.103.
2. The MULTE Program provides a ten-year property tax exemption on the residential portion of the structural improvements as long as program requirements are met. During the exemption period, property owners are still responsible for payment of the taxes on the assessed value of the land and any commercial portions of the project, except for those commercial improvements deemed a public benefit and approved for the exemption.
3. On June 29, 2016, Ordinance 187860 authorized a ten-year property tax exemption for Block 290/KOTI located at 1417 NW 20th Avenue. The application proposed 20 percent (30 units) of the project's 150 units would be affordable at 80 percent area median income.
4. The developer of Block 290/KOTI has requested to amend the approved application because the project size has increased. The amended application would include 20 percent (40 units) of the project's 200 units as affordable at 80 percent median family income.
5. PHB has the responsibility for reviewing compliance of approved applications with the minimum MULTE program requirements and has concluded that the amended application for Block 290/KOTI does indeed meet the minimum 20 percent affordability threshold of the program. Additionally, the project has demonstrated the required financial need for the requested tax exemption and is providing additional public benefits detailed in Exhibit A, as well as is within the designated MULTE eligible area of the City.
6. The PHB Housing Investment Committee reviewed and recommended approval of the amendment to the PHB Director for Block 290/KOTI because the application meets the program criteria. The Portland Housing Advisory Council held a hearing where the application was presented to the public.

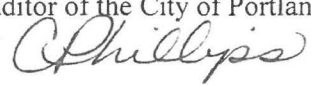
NOW, THEREFORE, the Council directs:

- a. The amended request for a ten-year property tax exemption under the Multiple-Unit Limited Tax Exemption authorized by Chapter 3.103 of the Municipal Code of the City of Portland, Oregon, and ORS 307.600-637 is hereby approved for the residential portion of the structural improvements, including associated parking, of Block 290/KOTI.
- b. Approval of Block 290/KOTI application is provided subject to the meeting the following conditions:
 1. The project must provide 20 percent of its units as affordable to households earning no more than 80 percent of the area median income as established annually by the U.S. Department of Housing and Urban Development. The units affordable to and restricted to occupancy by low – to moderate-income households will reflect the unit-mix in the project.
 2. The application will comply with the program requirements established in City Code Chapter 3.103, including the requirement that the owner sign an Extended Use Agreement and report annually to PHB each tax year that the exemption is in effect.
 3. The project must provide all of the public benefits as described in Exhibit A.
- c. PHB shall provide copies of this Ordinance to the Multnomah County Tax Assessor as prescribed by City Code Section 3.103.060 (C).
- d. If, after the Project is approved for the MULTE, and prior to construction being completed, the Project owner needs to make changes to the application submitted that would reduce the number, percent or distribution of affordable units in the Project, or the approved public benefits provided, the project owner must submit a formal restructure request. Restructures will be reviewed by staff, presented to PHB's Housing Investment Committee, and if recommended, to PHB's Director for submittal to City Council for approval. If changes to the Project are minor and would result in substantially the same Project, PHB may allow slight variances to what was approved without a formal restructure request.

Section 2. The Council declares an emergency exists because timely City approval of the application for the MULTE Program is necessary in order to allow the project to meet construction and financing commitments; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council: APR 26 2017

Mayor Ted Wheeler
Prepared by: Dory Van Bockel
Date Prepared: April 5, 2017

Mary Hull Caballero
Auditor of the City of Portland
By 
Deputy

401

Agenda No.
ORDINANCE NO. 188339
 Title

*Approve application under the Multiple-Unit Limited Tax Exemption Program for Block 290/KOTI Apartments located at 1417 NW 20th Avenue (Ordinance)

INTRODUCED BY Commissioner/Auditor: Ted Wheeler	CLERK USE: DATE FILED <u>APR 18 2017</u>
COMMISSIONER APPROVAL Mayor—Finance & Administration - Wheeler <i>PD</i> Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Eudaly	Mary Hull Caballero Auditor of the City of Portland By: <u><i>[Signature]</i></u> Deputy
BUREAU APPROVAL Bureau: Housing Bureau Head: Kurt Creager <i>[Signature]</i> Prepared by: Dory Van Bockel Date Prepared: April 5, 2017 Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> City Auditor Office Approval: required for Code Ordinances City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>6/</i> Council Meeting Date April 26, 2017	ACTION TAKEN:

AGENDA TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion) CONSENT <input checked="" type="checkbox"/> REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 30%;">FOUR-FIFTHS AGENDA</th> <th colspan="2">COMMISSIONERS VOTED AS FOLLOWS:</th> </tr> <tr> <th></th> <th style="width: 35%;">YEAS</th> <th style="width: 35%;">NAYS</th> </tr> <tr> <td>1. Fritz</td> <td>1. Fritz <input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>2. Fish</td> <td>2. Fish <input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>3. Saltzman</td> <td>3. Saltzman <input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>4. Eudaly</td> <td>4. Eudaly <input type="checkbox"/></td> <td></td> </tr> <tr> <td>Wheeler</td> <td>Wheeler <input checked="" type="checkbox"/></td> <td></td> </tr> </table>	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:			YEAS	NAYS	1. Fritz	1. Fritz <input checked="" type="checkbox"/>		2. Fish	2. Fish <input checked="" type="checkbox"/>		3. Saltzman	3. Saltzman <input checked="" type="checkbox"/>		4. Eudaly	4. Eudaly <input type="checkbox"/>		Wheeler	Wheeler <input checked="" type="checkbox"/>	
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CITY OF
PORTLAND, OREGON

PORTLAND HOUSING BUREAU

Mayor Ted Wheeler
Kurt Creager, Director
421 SW 6th Avenue, Suite 500
Portland, OR 97204
(503) 823-2375
Fax (503) 823-2387
portlandoregon.gov/PHB

Exhibit A

DATE: April 5, 2017

TO: Portland City Council

FROM: Dory Van Bockel, PHB Housing Program Coordinator
Jill Chen, Housing Portfolio Finance Coordinator

SUBJECT: Recommend Amendment to Approval of a Ten Year Multiple-Unit Limited Tax Exemption (MULTE) for **Block 290/KOTI** located at 1417 NW 20th Avenue

Overview

PHB approved a Multiple-Unit Limited Tax Exemption (MULTE) for the Block 290/KOTI project through City Council on June 29, 2016 (Ordinance 187860). Following the MULTE approval, the developer has requested to amend the approval to increase the number of units being built and subsequently the number of affordable units provided. The applicant plans to build to the maximum allowed floor area ratio in order to provide more units in an area capable of accommodating increased density and has updated the project design. PHB has reviewed updated application information with the additional units considered in order to confirm that the application still meets all of the program requirements.

Project Description:

Block 290, LLC proposes to build a mixed-use development, Block 290, or "KOTI" (the "Project"), at 1417 NW 20th Avenue, which takes up a block along vacated NW Quimby Street at NW 21st Avenue in the Northwest District neighborhood, also referred to as Slabtown. As part of the freight company, Con-way's, master plan development, a vacant truck service building currently is located on the site. The Project will take up the western half of the site, and an on-site public plaza will complement a park being developed separately on the eastern half of the site. The mixed-use Project will consist of 200 apartments and ground-floor retail space within a seven -story building.

The 200 apartments include 40 units (20%) with restricted affordability at 80% of median family income (MFI) or below. The remaining units in the project will be rented at market rates. The Project will consist of 71 studio units, 87 one-bedroom units and 42 two-bedroom units. The building will be about 181,165 gross square feet including roughly 132,000 square feet of residential space, 6,900 square feet of commercial space, about 20,540 square feet of courtyard, plaza and covered exterior space and about 45,900 square feet for 121 underground parking spaces.

Increase in Units

Unit Type	Previous Application			Revised Application		
	Total Unit Count	Unit Count at 80% MFI	Un-restricted Market Rate Unit Count	Total Unit Count	Unit Count at 80% MFI	Un-restricted Market Rate Unit Count
Studio	53	11	42	71	14	57
One Bedroom	72	14	58	87	18	69
Two Bedroom	25	5	20	42	8	34
Total	150	30	120	200	40	160

Proposed Unit Mix

Unit Type	Square Footage	Total Unit Count	Unit Count at 80% MFI	80% MFI Rent charged/with utility expense*	Un-restricted Market Rate Unit Count	Un-restricted Market Rent charged/ with utility expense*
Studio	450-470	71	14	\$989/\$1,037	57	\$1,539/\$1,577
One Bedroom	601-783	87	18	\$1,055/\$1,100	69	\$1,965/\$2,010
Two Bedroom	966-1011	42	8	\$1,261/\$1,320	34	\$2,672/\$2,731
Total		200	40	\$1,102/\$1,149	160	\$2,059/\$2,106

*Utility allowances used to predict utility expenses based on the 2016 Schedule of Utility Allowances for Section 8 Properties published by Home Forward ranging from: \$38 for studios, \$45 for 1-bedroom units, \$59 for 2-bedroom units.

The property is owned by Block 290, LLC and the Project will be developed by Guardian Real Estate Services, LLC (Guardian) who is the member of Block 290, LLC.

Public Benefits:

Whereas the MULTE Program has many goals, including the promotion of residential development in transit oriented areas and city centers, the public benefits most at the forefront of the program are affordability, equity and accessibility.

Affordability – 20% of the apartment units for rent in this Project will be affordable to households earning 80% or less of area MFI. The affordable units will be distributed evenly amongst the unit mix. By demonstrating that market rents are above 120% MFI in the area, affordable units at 80% MFI are allowed per the program guidelines.

Equity – The applicant has committed to specific strategies to ensure MWESB participation and working with specific local non-profit organizations to market to target audiences with a demonstrated need. Guardian, as the developer, is entering into an agreement with Metropolitan Contractor Improvement Partnership (MCIP) and NAMC Oregon for MCIP and NAMC Oregon to provide technical assistance around MWESB subcontracting with a goal of achieving 20% MWESB

participation. The contract includes working with Guardian and Andersen Construction to assist them with pre-bid planning, outreach to MWESB contractors, open houses, bid reviews, assistance to contractors, post-bid support and reporting both quarterly to the City's procurement office and a summary of all efforts and successes post construction. The application notes several recent projects for which Andersen Construction was successful exceeding the 20% MWESB participation goal.

Accessibility – The residential units will have elevator access, meeting all minimum Americans with Disabilities Act and Fair Housing Act requirements. The Project will also be built to have five percent of the units be fully adaptable to become fully accessible per ADA and FHA standards if necessary to accommodate tenants with disabilities. These public benefits will remain beyond the period of the exemption into perpetuity.

Application Evaluation:

Staff examined projected costs, debt, rents, utility allowances, and operating expenses to determine if the assumptions represent a reasonable expectation of how the Project will be developed and operate. Staff found both the development budget and the operating budget to be reasonable and reasonably consistent with industry standards and other projects, and tested eligibility for the tax exemption by examining financial performance and returns under three different scenarios.

Rents of the otherwise affordable units would need to increase by 114%, an average of \$262 a month for all units without the tax exemption, which precludes any units affordable at 80% MFI.

This analysis confirms that (i) the Project would not be financially feasible without the benefit of the property tax exemption, and (ii) the Project would not deliver the public benefits without the exemption.

After estimating the amount of the real property taxes that would be exempted in the first year of operation under the City's MULTE program at approximately \$657,432, staff calculated the ten-year value of this exempted tax revenue in today's dollars at approximately \$6,054,832, assuming a four percent discount rate and a three percent annual assessment increase. The City's portion of the foregone revenue over ten years is estimated at \$2,018,257, or 33% of the total.

The Project is not located within an Urban Renewal Area and is receiving private financing so will not be receiving any funding from PHB.

CONDITIONS:

The Project will be required to carry an extended use agreement and submit Project financial information annually during the exemption period, according to the terms of City Code 3.103.070(A).

If, after the Project is approved for the MULTE, and prior to construction being completed, the Project owner needs to make changes to the application submitted that would reduce the number, percent or distribution of affordable units in the Project, or the approved public benefits provided, the project owner must submit a formal restructure request. Restructures will be reviewed by staff, presented to PHB's Housing Investment Committee, and if recommended, to PHB's Director for submittal to City Council for approval. If changes to the Project are minor and would result in substantially the same Project, PHB may allow slight variances to what was approved without a formal restructure request.

RECOMMENDATION:

Staff recommends that the Portland City Council amend the approval of a ten-year property tax exemption for the residential portions of the Project, including associated residential parking, to be built by Block 290, LLC, or an affiliated entity because the Project meets the minimum threshold and public benefits requirements set forth in Section 3.103 of Portland's City Code. The HIPP Senior Program Manager will review any further proposed changes and can approve any slight variances not increasing the value of the tax exemption.

PL0001-050-051-1

MAP OF
COUCH'S ADDITION
TO THE
CITY OF PORTLAND

Map of Couch's Addition
to the City of Portland
By Peter W. Welch
County Surveyor
Recorded in Book 17, Page 6-1
Record of Deeds for Multnomah County, Ore.

Reference
Alfred covered by same previously recorded
Alfred covered by same previously recorded
The small amount of land shown on the map
is not shown on the map.

Record 12-14-83 By order 125509
Recorded in Book 17, Page 16-76
Record of Deeds for Multnomah County, Ore.

Record 12-14-83 By order 125509
Recorded in Book 17, Page 16-76
Record of Deeds for Multnomah County, Ore.

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Record 1-1-88 By order 125509
Recorded in Book 17, Page 16-76
Record of Deeds for Multnomah County, Ore.

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