



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

FROM CONCEPT TO CONSTRUCTION

Ted Wheeler, Mayor
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June 6, 2017

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

Submitted by
Tim Ramis
10/12/2017

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 ext. 400
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

MAP OF
COUCH'S ADDITION
TO THE
CITY OF PORTLAND

References
Blocks colored yellow previously recorded
Blocks colored Green surveyed July, August
and September 1872 by C. W. Barrege
The truth boundary is copied from recorded

Voted 12-14-83 By Order 155408
 Records on Dead Book J-720 Page 1676
 Records of Multnomah County, Oregon
 Lamy Nicholas County Engineer
 By [Signature]

ordered by Ord. 87180
ordered in Book 388, Page 120 - Bonded to
Paul A. Hamblitt.

Vacated 8/31/67 By order 125291
Recorded in Deed Book 586 Page 244
Recorded in Plat Book 1 Page 51
Records of Multnomah County, Oregon
308-1481

Director of Public Works
 Located Dec. 13, 1945, Oklahoma
 Co. 85575, recorded 15 April 1946
 Page 435 & record of deeds
 Mulholland County, Okla.
 Claude C. Pinner
 county Surveyor

POOR 1

51

9
By Order 158919
1036 Page 1014

County Engineer
D. B. Baker

