

Re: OPB 2021-012886-000-00-LU

mike dowd <dowdarchitecture@gmail.com>

Wed 2/17/2021 3:18 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

Hannah,

In the meantime, you may recall that I discussed OPB with you last year when you did their second Early Assistance review. (I've also met about OPB a couple years ago with Rebecca Esau, Michelle Seward, and Kimberly Tallent, then again with Rebecca and Mike Liefeld, and also discussed it with Rodney Jenkins after his EA review.)

We live next to OPB (at OPB's SE corner, across the tracks) and will be the people most negatively impacted by any reduction in buffering requirements along OPB's south and east property lines. I've tried to communicate with OPB about the buffering requirements and other issues since before their recent construction, with no success. Last week after months of unanswered emails, OPB's Facilities Director declined my latest requests to communicate: ***"As for the issues with OPB's nonconforming issue with the City of Portland I am current in engage (sic) with the city and an architecture firm to sort out a plan forward. If any of the changes/work require a public notice you will of course be made aware of that."***

The irony is that you already told OPB (in your EA response) that proposing no buffer with no mitigation will be difficult to approve, and I have ideas (and a site plan sketch) showing a combination of fencing, landscaping and other mitigations that I think would work well for both OPB and us. But OPB refuses to communicate, so I've never been able to discuss them.

Also, I don't know what OPB's current info shows, but its EA site plans didn't show site info completely or accurately enough for BDS to do an accurate review. I mentioned some (not all) of these shortcomings to you last year. Some involve zoning violations (not non-conforming upgrades) beyond the several for which BDS already cited OPB for. Several are directly relevant to OPB's request to alter the buffer requirements (such as the east side of OPB's building being several feet closer to the east property line than OPB showed in earlier site plans). When I met with Rebecca Esau and Mike Liefeld, we all agreed that the best way to handle these was for BDS to catch them during this upcoming review. (I did not want to file zoning violation complaints myself because I and my family have already been threatened by OPB and its contractors, to the point of our having to call 911.) I can give you a more complete list of what I noticed once I see the current proposal.

Mike

Michael Dowd, President
Dowd Architecture Inc.
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Portland, Oregon 97219
(503) 891-5475
email: dowdarchitecture@gmail.com

On Wed, Feb 17, 2021 at 1:59 PM mike dowd <dowdarchitecture@gmail.com> wrote:

Hannah,

I saw that you're listed as the staff contact for OPB's Type III Design Review for their property at 7140 S Miles St.: https://www.portlandmaps.com/detail/permit/2021-012886-000-00-LU/4650267_did/

Is there any info available yet that you can email me (especially specific written info and drawings from OPB) that describes their proposal?

Mike

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Re: OPB 2021-012886-000-00-LU

mike dowd <dowdarchitecture@gmail.com>

Wed 3/3/2021 11:27 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

Hannah,

No worries, I can't imagine the work needed to keep BDS functioning during a pandemic. I was glad to see you were assigned to this, given your experience in the earlier reviews.

I would like to talk about what's being proposed as soon as that's appropriate. .

In regard to completeness, I just skimmed through and found several things missing. There are several zoning violations that (per my meeting a year ago with Rebecca Esau and Mike Liefeld) would make sense to catch now (by having OPB propose corrections or ask for modifications in this review) rather than derailing everything during or after the review by citing OPB for zoning violations. The east building setback is a violation, so is the fencing and landscaping at the satellite area, etc. Also, the proposal is impossible to review completely because there is no ground level parking plan (the ground level is fully exposed on the east side) and no east building elevation. Thus, you can't see the 5 illegal spaces OPB was cited for, the fact the trash area is unscreened isn't reviewable, etc. I'd be happy to talk about those if that's appropriate.

Mike

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On Wed, Mar 3, 2021 at 3:10 PM Bryant, Hannah <Hannah.Bryant@portlandoregon.gov> wrote:

Hi Mike,

Thanks for your patience - I've been slammed with other deadlines and haven't even downloaded the documents related to this case yet, let alone reviewed them. I'm glad Bryan was able to help you more quickly.

As you know from past reviews, once it's deemed complete, public comments will be solicited via public notice.

Best,
Hannah

From: mike dowd <dowdarchitecture@gmail.com>
Sent: Monday, March 1, 2021 2:45 PM
To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>
Subject: Re: OPB 2021-012886-000-00-LU

Hannah,

Sorry to bug you, but is there any info available yet that you can email me (or tell me by phone) describing (site plan or written info) what OPB is proposing, especially along its east and south property lines?

I have been asking OPB for months to talk to me (and years before that) and they finally responded by refusing to discuss or show me anything. They told me only, "If any of the changes/work require a public notice you will of course be made aware of that."

I also did a public records request, but apparently those could take 15 days pre-Covid.

Mike

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The irony is that you already told OPB (in your EA response) that proposing no buffer with no mitigation will be difficult to approve, and I have ideas (and a site plan sketch) showing a combination of fencing, landscaping and other mitigations that I think would work well for both OPB and us. But OPB refuses to communicate, so I've never been able to discuss them.

Also, I don't know what OPB's current info shows, but its EA site plans didn't show site info completely or accurately enough for BDS to do an accurate review. I mentioned some (not all) of these shortcomings to you last year. Some involve zoning violations (not non-conforming upgrades) beyond the several for which BDS already cited OPB for. Several are directly relevant to OPB's request to alter the buffer requirements (such as the east side of OPB's building being several feet closer to the east property line than OPB showed in earlier site plans). When I met with Rebecca Esau and Mike Liefeld, we all agreed that the best way to handle these was for BDS to catch them during this upcoming review. (I did not want to file zoning violation complaints myself because I and my family have already been threatened by OPB and its contractors, to the point of our having to call 911.) I can give you a more complete list of what I noticed once I see the current proposal.

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2021-012886-000-00-LU seems very incomplete

mike dowd <dowdarchitecture@gmail.com>

Fri 3/12/2021 4:25 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

Hannah,

I hope you can consider these comments about OPB's application. They're not about the proposed design, they're about the incompleteness of the application.

I'd mentioned that when I met with Rebecca Esau and Mike Llefeld, we all agreed it would make sense to address several not-yet-cited zoning violations (along with nonconforming upgrades that BDS may have missed in its earlier review because OPB didn't submit accurate info previously) during this review, meaning OPB either needs to adjust its design to comply with the code, or ask for modifications.

I listed those items below, along with some other things that I believe make the application incomplete. I'm sure you'd catch several of them, but others may not be evident from the info currently in the application. In past land use reviews, OPB has submitted faulty information (for instance, showing landscaping that never existed, and wrong setback dimensions, because they were just copied off old site plans). OPB is still showing faulty info in its current drawings, so I've noted where.

These are the items I believe require adding modification requests, or changing what is proposed to eliminate the need for modifications:

1: East building setback is several feet short of the 1987 setback requirement of 30' to centerline of tracks--needs a modification since correction is impossible.

2: Existing paving beyond the east property line violates the 1987 prohibition against development into the rail property. OPB doesn't show that paving in its application drawings, and denies it exists in its narrative, and has never shown it on previous land use or permit drawings, but it is there (BDS cited it as a zoning violation over two years ago, and it's visible on portlandmaps aerial photos--eight parallel parking spaces paved several feet into the r.o.w.).

3: South driveway perimeter landscaping should be 5'/L2, but only 2.3' is proposed. The landscaping against the building doesn't count.

4: Landscaping at parking area west of satellite dishes and north of Nevada is not 5' wide measured from property lines. There is a "5'/L2" note at one bed, but that's not what's there now at all the required locations, and no widening is shown.

5: The landscaping and fencing on all four sides of the satellite dish area do not comply with the 1987 approved plan (or narrative) which shows landscaping several feet deep in front of the fences to screen them. Instead, the fence has been moved out to the sidewalk (south side) and onto the adjacent property (north side) and much of the landscaping has been removed or killed, or perhaps was never installed as approved. The large trees on the north of the satellites are not located as shown on the incomplete proposed landscape plan--they are located on the adjacent lot (that OPB sold to another entity to avoid nonconforming upgrades to the north). A later design review legalized the generator and its screen but not those other landscaping and fencing changes, because changes to those weren't requested in that review.

6: Trash area isn't screened. OPB states it's in the parking structure, but doesn't disclose (in narrative or drawings) that the garage is unenclosed at the trash area, so the trash is totally visible from S Miles,

S Nevada and the park

7: (possibly) Interior parking lot landscaping: Several areas identified with yellow as "interior landscaping" seem like they may not qualify, but the code is confusing to me.

--the yellow bed on the west side of the "existing surface parking" seems like it may not count, and it's also on the other side of the concrete wall, so not even visible from the parking area.

--the yellow beds on the east side of the "existing surface parking" are a story below that parking, so can't count as interior landscaping for it. If it is being counted as interior landscaping for the 2 parallel spaces at the driveway level, that would be a high percentage of interior landscaping concentrated at those spaces, meaning it's not well disbursed.

--the yellow landscaping at the north side of the parking just north of Nevada and west of the satellites may not count as interior landscaping. It looks like it's needed just to make the north planter 5' deep.

8: (possibly) There are several tall mechanical units and satellite dishes on the roof that I don't believe have ever had design review, or that are larger than what was shown in reviews (about twice the height of the rooftop screen wall). It could be some of the equipment was exempt from review. The equipment and its status are relevant because the application requests modifications to landscape screening requirements. Those modifications (including one to be added for the building's east setback violation) can't be reviewed without knowing what that landscape might be screening, and the rooftop equipment is so tall it adds substantially to the visual bulk of the building which some landscaping requirements intend to screen or soften.

Additional question regarding landscaping and fencing of the satellite dish area north of

Nevada: Besides the fact that the landscaping and fencing at the satellite area does not match what was approved (per #5 above) I think there may be an issue with the "site" for this project. OPB recently transferred ownership of the lot north of the satellite dish area to another entity, to exempt that lot and OPB's property north of it from nonconforming upgrade requirements.

However, a few months ago, OPB moved the fence that was required in the 1987 approved plan (that screens the satellite dishes on their north side). Instead of being on the satellite dish lot as required, between the dishes and the trees to the north, it was moved to the lot north of the satellite dishes, off of OPB's "site" for this review. Also, those trees are shown on the site/landscaping plan in OPB's current application as being on the satellite dish lot (where the 1987 plan required them to be). In reality, they are on the lot to the north. That can't be verified by OPB's survey it supplied, because that survey included all of OPB's trees except those. However, they are clearly north of the staked, iron-rod-marked property corner at the site.

Doesn't that mean the lot to the north has to be considered part of the site for the project, since OPB chose to put the fence and landscaping required in 1987 on that lot? And if so, wouldn't that mean that lot and the rest of the OPB property to the north should be included in the areas subject to nonconforming upgrades? To me, it would, unless OPB applies for modifications to the 1987 design review decision for the screening requirements for the satellite dish area (which it has to do anyway because the landscaping and fencing don't match what was approved).

Another way of looking at it--how can the City require the owner (another OPB entity) of the fence and trees north of the satellite dishes to keep them to screen the satellite dishes, if that lot isn't considered part of the "site" in this review?

Issue with drawings in the application: OPB submitted only a site plan and survey in the application. But (especially) if the application is modified to address any of the issues listed above,

then additional drawings (building elevations, roof plan, ground floor garage plan, site plan of lot north of the satellite dishes, etc.) are needed to review those. BDS should require OPB to include those in the application.

I hope this is helpful. No need to reply, although I'd be happy to discuss any of it with you.

Mike

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OPB 2021-012886-000-00-LU Twelve significant items in OPB's application that are not true

mike dowd <dowdarchitecture@gmail.com>

Sun 4/4/2021 11:53 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

Hannah,

I'm finding many things in OPB's application materials that are not true. Not subjective opinions I disagree with, but basic facts-- wrong dimensions, showing nonexistent things as existing, claiming existing things do not exist, etc.

I'm writing now because they make it impossible to accurately review the proposal. Some may make the notice inaccurate. Also, there is no way to know they are not true from reviewing only the application materials. You can verify they're wrong by seeing the site in person, or comparing the materials with BDS's zoning code violation letter, previous building permit documents, and portlandmaps or google aerial and street views.

In its past several land use reviews and building permit applications, and the two recent Early Assistance reviews, OPB has often submitted false information, most notably showing required landscaping that has never existed, and **never** showing the most extreme violation that BDS cited it for--the bootlegged paving and parking spaces in the rail r.o.w. That is one reason so many problems are showing up in this application--BDS has never had accurate info to identify those issues before, including BDS's earlier nonconforming review.

I'm not saying OPB is intentionally lying. At the same time, the wrong information benefits OPB in every case. And again, OPB has a record of submitting information it knew was wrong. In several cases, I told OPB it was wrong myself, but OPB submitted it anyway.

These are twelve items I don't believe are truthful:

1. OPB still denies that its illegal paving on the rail property exists: The most egregious of the zoning violations OPB was cited for was its bootlegged paving and eight illegal parking spaces in the rail r.o.w. It violates the zoning code and a 1987 condition of approval, intrudes into the safety clearance zone of the rail tracks, and was done without telling the City or the property owner. OPB has never shown that paving in any previous land use and building permit drawings I've ever seen. In its current application, the paving is not shown on the survey or "existing conditions" plan. In the narrative, OPB states, "**Temporary paving into the railroad right-of-way to facilitate construction of recent site improvements (that) has been removed**". The paving has been there illegally for years and is there today. No "temporary paving...to facilitate construction" was ever removed, because there never was any temporary paving. OPB simply will not admit it went onto someone else's property and bootlegged in illegal parking, and isn't proposing to remove it. OPB is also proposing a break in the proposed east fence, without 5' of landscaping, and no trees, which would give OPB continued access to the pavement, which makes it appear that it is intentionally lying about the pavement.

2. OPB is hiding that our home exists: OPB's detailed "Surrounding Uses" table, mentions all the closest surrounding uses EXCEPT our home. It also mentions uses to the west are across a state highway and hundreds of feet away from OPB, but not us at only 26' away. In the zoning code, requirements aimed at protecting/buffering surrounding uses from a development typically require the greatest protection for residential uses, because people living next to another use typically are more impacted than other uses. OPB is asking for modifications to allow it to skip providing buffering landscape along the east property line, and also is proposing to provide less than the required buffer landscaping along its south property line. OPB is also proposing to provide NEITHER the required landscaping NOR it's proposed fence for a large gap very close to our home. OPB's requested modifications will have major detrimental impacts to us, but no impacts to several of the other uses it does mention, which makes it appear that leaving us off the list of surrounding uses was intentional.

While we are mentioned once or twice elsewhere, OPB doesn't mention our home in several other sections where it would be particularly relevant. For instance, OPB mentions the existence of trees in Willamette Park as a reason to allow OPB to not provide 16 to 32 required trees along its east property line, perhaps hoping nobody will notice that those trees are not between us and OPB, so provide no screening for us.

3. OPB hides that its north building and two additional parking lots exist: North of the satellite dish area, OPB owns another large parking lot (nearly 30 spaces) a large building with one very large, and two smaller, off-street loading docks, and another, smaller parking lot. The "Surrounding Uses" information also doesn't mention any of that, nor could I find any of it mentioned anywhere in the narrative. The survey doesn't note any of the three loading docks, and cuts off the north parking lot. The other site plans don't show anything about it either. The fact that OPB has three other loading docks, several dozen additional parking spaces, and several thousand square feet of office space, with constant pedestrian traffic among them all, is VERY relevant to several aspects of the review. Because OPB argues that it is so desperate for loading/paving/parking area along the east driveway that it can't provide ANY perimeter landscaping, and disclosing that it has three more loading docks and several dozen more parking spaces would water that argument down greatly, it looks like OPB's hiding that all that exists is intentional.

4. OPB denies that the only large tree on the south end of OPB's property exists: There is a large (greater than 12" caliper, height about 20') tree at the southeast corner of OPB's site, which is the only thing providing currently providing buffering between our home and OPB. The tree next to it is ineffective, only about 3" or 4" caliper. But the small tree is shown on OPB's survey, its existing conditions plan, its construction management plan, and its proposed landscape plan. The large tree is shown on NONE of these. Obviously, omitting the tree from all the info makes it impossible to review this application accurately. Since the removal of the large tree may trigger issues with the Tree Code, and is a significant negative impact to us, it appears that totally hiding its existence may be intentional.

5. OPB claims incorrectly that the garbage area meets screening requirements because it's "inside the garage": While most of it is under a cantilevered roof section of the structured parking, there are no walls or other screening around it, so it is totally unscreened from the east (park and trolley line), north (Nevada and park entrance) and south (our home and Miles St), in total violation of screening requirements. This is impossible to know it's not accurate, because OPB didn't supply a ground level garage plan, or building elevations or sections that would show this. This is such a basic misunderstanding of the code's, "All exterior garbage cans, garbage collection areas, and recycling

collection areas must be screened from the street **and any adjacent properties"** that it's hard to believe that it was a simple misreading of the code.

6. OPB is hiding almost all the satellite area info, and hiding that that area violates approved plans: The development (satellites, fencing, generator and landscaping) in the satellite dish area north of Nevada is relevant to the review, but OPB's survey leaves almost all of that info out, and a note hides almost all of it on the site plans. The satellite area is substantially different than what has been approved in prior reviews (expanded satellite dish area, fences moved, required landscaping not provided) so hiding that info benefits OPB.

7. OPB is showing required trees at the satellite dish area that don't exist: The site plans that were approved for the satellite area in the original 1987 review, and for the later generator-addition review, show several large evergreen trees to be located on the lot the dishes are on. That's what is shown as "existing" on the proposed landscaping plan, but they do not exist. Instead, there are three trees on the lot to the north that OPB transferred to another entity to avoid having additional required nonconforming upgrades. On OPB's Existing Conditions plan, no trees are shown at the satellite area because a note was placed there blotting out the whole area. On the Construction Management Plan, the imaginary trees on the satellite lot are shown, but the actual trees on the lot to the north are NOT shown. On the survey, all the trees that exist in the parking areas next to the satellite dishes are shown, but no trees are shown on the north side of the satellite dishes--neither the imaginary ones on the satellite lot, nor the actual ones on the lot to the north. The result of all this is OPB seems to be wanting anyone looking at the site plans to think the required trees are existing, and are on the satellite dish lot per the approved land use site plans, which is false.

8. OPB claims the landscape buffer requirement is met on the south property line when it isn't even close: OPB claims (p.22) "As shown on sheet L3.0 of the plan set, the 5-foot L2 screen requirement is provided on the site perimeter, including the site's southern boundary, southeast corner, western boundary, and the north and western perimeters of the existing parking areas, with the exception of the site's eastern boundary abutting the TriMet railroad right-of-way." But on the Landscaping Site Plan, OPB shows the perimeter planter as only 2.3' wide. The landscape planter on the inner side of the driveway does not count as required screening for the driveway.

9. OPB claims the landscape buffer requirement is met at the parking lot north of Nevada property line when it's not: 5'/L2 is required, but some of the beds are not 5' wide as measured (as required) from the property line, and the proposed plan doesn't show widening them. They are noted in a way that gives the (false) impression they are all 5' wide.

10. OPB claims it is providing a fence along the east property line in lieu of the required 5'/L2 landscape buffer, even though it isn't providing either near our home: The impression the narrative gives is that our home will be buffered from the east driveway by a continuous 6' tall fence along the east property line. The Landscape plan, however, shows the fence stopping in line with the SE corner of the building, about 40' short of the south property corner. It also shows that only about half of that gap will have 5'/L2 landscaping. That leaves a 15'-20' deep gap at the south end of the fence with a planting bed with no trees, less than 5' wide (tapering down to nothing). Since that is the most important location for buffering between OPB's driveway and our home, and we are the closest and most-impacted residents, it looks like OPB is intentionally hiding that its proposed modification won't protect us.

11. OPB claims the fence will prevent trespassing between OPB's property and the railroad and park when it clearly won't: OPB mentions several times in the narrative that the fence will prevent trespassing between OPB and the park and rail property. That has never been a major issue in my 16 years living here (with the exception of OPB's trespassing onto the rail property, using the portion it illegally paved for parking and loading) because OPB's building and parking structure totally block access between Macadam and the park/rail r.o.w. for the entire 480' length of OPB's property--with the exception of OPB's south driveway, which provides the only direct connection between Macadam and the park/rail property. Crazily, that is EXACTLY where OPB proposed to NOT build the fence. That creates a gap about 40' wide located in the most perfect spot possible for trespassers. If anything, the fence with that one gap there will encourage ALL trespassers to come down as close as possible to our home to trespass, then cut into the park directly in front of our home through the underbrush.

12. OPB is showing misleading/false dimensions that exaggerate the narrowness of the east driveway and hide that the building violates the 1987 setback requirement: OPB includes several dimensions between its building and the east property line on its Site and Landscape Plan. These appear to be setbacks, but they are actually (as best as I can tell) clearances between the building and fence. (The Early Assistance plans showed larger numbers--I assume because those were actual setback dimensions.) If so, it's misleading because there should be setback dimensions on the site plan, not clearance dimensions that aren't labeled as clearances. There is also a 12.3' dimension to a bollard, which is irrelevant because the bollards could easily be removed. The false part is that the east face of the bollard appears barely over a foot from the building wall, but it is shown as being more than 2' away, so either the 12.3' or the nearby 14.5' cannot both possibly be true. The most important dimension isn't included at all--the 1987 condition that the building be set back 30' from the rail centerline. Because the rail r.o.w. is 26' wide, with the tracks in the center, there is 13' from the rail centerline to OPB's property line. That means the building wall has to be set back 17' from the property line, which it misses by about 1' (at the south end) to 4' or 5' (north end). Even adding several inches for fence depth, OPB's own dimensions show it violates that requirement. And OPB carefully avoids any dimensions near the NE corner, where the setback is several feet short. OPB's argument that the driveway is so narrow that landscaping won't fit is bolstered by making it appear the clearance dimensions are setbacks, so it could have been intentional to not state clearly that those were clearances. And of course OPB's decision to NOT dimension to the rail centerline hides that it needs an additional modification for the significant building setback violation. The building's east wall location is extremely relevant to OPB's modification requests. It is also crucial it be correctly shown because of OPB's history of showing the wall as being several feet east of where it actually is, on every land use and permit site plan I've seen since 1987--including the site plan for the land use review and building permit for its recent renovation.

I hope this information is helpful. I mentioned some of these earlier, but included them again because I think it's important to have this objectively untrue information collected in one document.

Mike

Michael Dowd, President
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9/15/2021

Mail - Bryant, Hannah - Outlook

email: dowdarchitecture@gmail.com

OPB 2021-012886-000-00-LU OPB--drawing showing what 5'/L2 looks like

mike dowd <dowdarchitecture@gmail.com>

Tue 4/6/2021 3:58 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

 1 attachments (1 MB)

IMG_6156.jpg;

Hannah,

As you know, the biggest issue to me is the screening along the east property line. OPB's proposal is to build a fence, without any perimeter landscaping.

I wanted to make it clear what the difference is between OPB's proposal and what is required. This drawing shows 5'/L2 landscaping along the east property line. Since it's about 480' long (not the 440' that OPB is proposing for the fence) that means 480' divided by 30' = 16 large trees required, which is what I drew.

At 5' wide by 480' long, that is also 2,400 sf of pervious landscaping bed, versus zero for the fence. That has tremendous stormwater, habitat, cooling and aesthetic value the fence doesn't have.

You can see at a glance that the fence, while providing screening at ground level, falls far short of the buffering and other benefits that 2,400 sf of planting with 16 large trees (or 32 small ones) would provide. The difference from our house and the park would be incredible.

I'm not saying that OPB should provide the 5'/L2--it doesn't fit. I'm saying that OPB needs to do a lot better than a fence alone, given that the fence falls so far short of comparing to the required 5'/L2. So the City should require as many trees and other landscaping as will fit, plus other conditions like I've mentioned (light shielding, etc.). I'll make a specific list of those, along with a drawing, later (once OPB furnishes actual setback dimensions).

No need to reply to this.

Mike

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Re: OPB 2021-012886-000-00-LU six more incomplete items

mike dowd <dowdarchitecture@gmail.com>

Tue 4/6/2021 12:22 AM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

Hannah,

Thanks. OPB has been so bad over the last few years--after being fine for years before that--that the idea that they'd ask me to provide our own screening is totally in keeping with other things they've said and done. So that's good to hear they said what they did.

Too bad about the site visit, but we can work around that.

I understand what OPB is claiming about the space available for a driveway plus landscaping on the east side of the building. Yes, they are correct that there is not enough room for a 12' wide driveway plus a 3' wide planter for the length of the main building (not the garage). But there IS room for a 3' planter for a substantial part of that length, and if the driveway is reduced to 11', between the loading door and the north end of the building, there is room for a planter 3' wide or close to 3' even there. They already are proposing leaving the driveway only 11'-6" wide at the south end of the parking structure, and the only reason for it being narrow there is that there's a small curb there that could easily be moved. That means they don't think a 12' min. is worth spending a few hundred dollars to move a few feet of curb. .

Also, OPB is claiming the reason the driveway must be 12' wide is that it is a parking area aisle. But it isn't--there's no parking along it. I don't know of any other requirement for a driveway width. It's not a fire lane. Does OPB?

This is all why it was so wrong for OPB to give deceptive dimensions on its latest landscape plan. The dimensions do NOT show the total width available. You can see that they are not taken to the property line if you enlarge the site plan. They are several inches less than the dimensions that were in the Early Assistance drawing that I sent you, and that drawing was done after the latest survey that they furnished to you. So the Early Assistance plan appears to show the true dimensions available, and they show there is plenty of room to add significant landscaping even with a 12' wide driveway, and even more with an 11' or 11'-6" driveway.

The actual dimensions from the east building wall to the property line are about 14.25' at the north end of the building, and 16.25' at the south end. That means a 12' wide driveway leaves about 4.25' at the south to 2.25' at the north for a fence (a few inches wide) plus planting. Or, 5.25' to 3.25' with an 11' wide driveway. In either case, the loading area would be the full width to the fence, with no landscaping, or about 15' wide--a very generous 5' wider than required.

There's also a possibility to add a second loading space in front of the garage, which would allow delivery vehicles to park with enough room for other vehicles to pass easily. I'll show you that in a drawing. It would be very useful for OPB in my opinion. I've been trying for 3 years to get OPB to look at that option, but they've never agreed to talk to me about it.

The other thing to remember--OPB chose to locate the building closer to the property line than what was approved, then chose not to tell the City for the past three decades. Even single-family house

foundations are surveyed in. It is inconceivable that OPB located its building without surveying it. So the lack of width was created by OPB, by conscious choice. So OPB has a responsibility to come as close to meeting the standards as it can.

Mike

PS If OPB would instead furnish a masonry wall 6' high, I think that could count towards some extra reduction in landscaping. And that's not an extreme thought--the masonry wall would be required if the zone change line were at the edge of the rail r.o.w. instead of the center. if OPB were providing trees but not shrubs.

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On Mon, Apr 5, 2021 at 9:43 PM Bryant, Hannah <Hannah.Bryant@portlandoregon.gov> wrote:

Hi Mike,

I appreciate this and will read it all again in the morning. I do want to clarify one miswording on my part lest you blame OPB for my mistake. In my earlier email I asked if there was anything that OPB could do to mitigate their impacts on your site, and should have been more clear that in that conversation, their team suggested that OPB could provide additional screening for you if that was helpful - not that you should provide it yourself.

Their team says that a recent survey revealed they have less than 3' between the driveway and the property line - less than previously believed and illustrated on earlier site plans. That is the rationale for the Modification request - that there is physically not sufficient space to provide even the 3' of landscaping required in the historic condition of approval.

I am not permitted to conduct site visits at this time, so I am not able to meet you on site.

I appreciate your list of proposals - that does help me better understand.

Best,
Hannah

From: mike dowd <dowdarchitecture@gmail.com>

Sent: Monday, April 5, 2021 3:41 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

Subject: Re: OPB 2021-012886-000-00-LU six more incomplete items



The City's email systems have identified this email as potentially suspicious. Please click responsibly and be cautious if asked to provide sensitive information.

Hannah,

Also, when you asked me what else I'd like to see in addition to the proposed 6' fence, and I responded that OPB should add as much landscaping as possible along the east property line where it fits....

This is OPB's own drawing from its first Early Assistance review, showing that even OPB's own consultants felt that a planter about 3' wide could be added for significant stretches of the east property line, while still maintaining a 12' wide driveway. The planter is omitted at the loading door, which is fine with me because it's away from our home, which gives them an ever wider area (about 15') at the loading area. Very large moving trucks are only 8.5 feet wide. Trees north and south of the widened loading area would screen the loading from views from our house and Miles St. to the south, and the Nevada Park entrance to the north.

This drawing is from 5/9/19, more than a month later than the new survey (3-29-19) and shows the true east setback width available. That means there's no reason this isn't still valid.

Also note that 12' is a generous width for a driveway, especially from the loading door southwards, since there is virtually zero pedestrian use there. 12' is wider than PBOT uses for typical street travel lanes, and even wider than the "fast" lanes on Macadam.

I'm sending you this because it's such a simple illustration that OPB certainly has enough width available to add several tall, narrow screening trees on significant sections of its driveway, that would make a tremendous difference in screening for us, and for people in the park.

If OPB claims they can't fit trees in a 3' planter, note that they are proposing wide-spreading trees to be planter in a 2.3' planter along the south property line. There are projects all over Portland with tall, narrow screening trees that would work well at OPB.

So OPB has already shown that a) it has room to do planters on the east property line, and b) the planters would be wide enough to plant trees in.

Thanks again for considering all this!

Mike

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On Mon, Apr 5, 2021 at 2:14 PM mike dowd <dowdarchitecture@gmail.com> wrote:
Hannah,

Also, I talked to my neighbors, Marque Motors, who are immediately south of OPB. They said someone from the project (I assume the Landscape Architect) voluntarily reached out to them to discuss OPB's plans for the south property line. What OPB is proposing does NOT work for Marque Motors. Marque Motors told me that my ideas for what I think should happen there would work perfectly for them, also. It would also work well for OPB, as best as I can determine (since OPB will not talk to me).

Like I said, I'd be happy to talk to you about all of this.

Mike

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On Mon, Apr 5, 2021 at 2:09 PM mike dowd <dowdarchitecture@gmail.com> wrote:
Hannah,

Zoning violations

There are several code compliance issues, and some are major--especially the east setback violation and the satellite dish area ones. The setback violation isn't one that can be changed, but it is very relevant to the mitigation that could be done on the east property line. The satellite dish area violations make the rail crossing much less safe than it could be. If those aren't addressed in this review, then they will be a mess to deal with later.

Fence and screening along east

Your timing is perfect for bringing that up, given what I wrote in yesterday's email. OPB did not tell you accurately what they are proposing with the fence. No, they are not proposing to screen the whole length of their east property line with a fence. They are showing stopping it about 40' short of the SE property corner--exactly where we need it most. They are also showing a gap in the required landscaping there. They are also proposing increasing the traffic there several-fold. They also have plenty of room to provide significant landscaping along the east property line. The south property line is also a significant issue for us, and they could EASILY provide the solid fence and TALL, columnar trees there, and a bed wider than 2.3'.

I find the idea that OPB is wondering if I should add screening offensive. We have had the police come out and stop their middle-of-the-night parking lot sweeping so many times I can't count, and OPB's response was that there was no issue--as just one example of how poorly OPB has behaved. OPB currently has several dozen cones in back set up to direct delivery vehicles to park as close as possible to our house. We've had to call 911 for police protection from OPB's contractors who threatened us for calling in a noise violation. After Parks told them to quit using Willamette Park for construction staging and parking, they violated that more than 1,000

times. I could give you a whole list of people from Parks, PBOT, the Fire Bureau and Noise Control who have all been frustrated by OPB's lack of willingness to even be legal.

When I went to OPB at 4 AM to tell them to stop roto-hammering concrete a few yards from our bedroom, two months before they even had a building permit, instead of stopping the noise (illegal before 7 AM) OPB's contractor screamed at me that he was going to have me "prosecuted for federal railroad violations" for walking across the tracks. And then OPB and the contractor actually DID file a complaint against me to ODOT Rail! (who reassured me not to worry about it).

I know these are not your issues, but they are part of the reason I find OPB's response that we should provide our own screening offensive.

Yes, I DO have lots of ideas of how OPB could achieve the clearances they actually need, while providing screening that would be effective for us. I've been trying for three years to get OPB to discuss them. After giving up after perhaps 50 or 60 calls or emails with no response, I tried again starting last fall with several more emails and calls. Kyle, their new Facilities Manager, responded by telling me **"If any of the changes/work require a public notice you will of course be made aware of that"**--in other words, a refusal to discuss any of it.

I haven't sent you any ideas of the solutions that would work well for me, and achieve reasonable results for OPB, because I was waiting until the notice came out. They involve:

- keeping the driveway 2-way where it is now 2-way,
- extending the solid fence all the way to the south corner and around the south property line,
- doing landscaping with tall columnar trees along the south property line and where it fits along the east,
- possibly adding an ADDITIONAL loading spot near the structured parking,
- shielding and adding timers/dimmers to the exterior lighting on the east, etc.

They are all doable, and it would be easy for the City to justify requiring them. The fence alone only accomplishes a fraction of what the required landscape screening would do.

The ideal thing for me would be to be able to show you these at OPB's site (we don't need to enter their site). I could also show you all the items in my email last night where OPB has submitted false information--those are easy to see in person. If that isn't possible, I'd love to be able to talk to you about all this whenever it would be convenient.

Mike

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On Mon, Apr 5, 2021 at 1:09 PM Bryant, Hannah <Hannah.Bryant@portlandoregon.gov> wrote:
Hi Mike,

Thank you for your detailed emails.

This application is currently incomplete. I forwarded your earlier email to the applicants and asked them to address it in their incomplete response. Since I know their submittal will be changing quite a bit, I will wait for the revised submittal before reviewing it against your listed concerns.

The OPB site has a lot of existing non-conforming conditions that, while not approvable if they were proposed today, are not necessarily issues that are required non-conforming upgrades. I will work with the code compliance team to make sure that any outstanding code compliance issues are included in this review. However, beyond code compliance issues and require non-conforming upgrades, my sense is there will continue to be outstanding issues that are bothersome to you, their neighbor.

OPB has offered to screen all 440' of its eastern property line with a 6' wood fence. The fence would abut the train tracks but is intended to screen the 'back of house' elements from your property. I'm curious if there's anything else that OPB could do that would help you feel more comfortable with their existing development? In my conversations with the applicants, they've wondered if providing additional screening on your property to help block views would help mitigate some of your concerns. While that work would be outside the purview of Design Review, I'm happy to facilitate that communication if you have some ideas on creative solutions.

Best,
Hannah

From: mike dowd <dowdarchitecture@gmail.com>

Sent: Saturday, April 3, 2021 1:47 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

Subject: OPB 2021-012886-000-00-LU six more incomplete items

Hannah,

I've found several more reasons I believe OPB's application is incomplete, beyond the ones I sent you earlier. As with the others, I thought it may be helpful for you to have these now versus after the notice comes out. You probably noticed some of these, but others are not clear given the incomplete info that OPB gave you.

I believe each of these six requires a modification to a standard, or revising the proposed design to comply with the applicable standard.

1. Loading spaces: Two loading spaces are required. OPB states loading will occur in the east driveway, but without the required 5'/L2 buffer. The regulation requiring that buffer is different from the regulation for parking area landscaping that OPB is asking to modify, so an additional modification--or a drawing demonstrating compliance--is needed.

2. Bike parking: No short-term bike parking is shown. It's not enough for OPB to say it's in the parking garage a story below. (There's a bike rack in the garage currently, but it looks too

far from the front entry to comply.) OPB's incomplete info gives no way to judge compliance.

3. Parking space dimensions: OPB proposes converting to two parallel spaces the five (OPB incorrectly says four) spaces that it illegally striped under the cantilevered portion of the parking structure. But two spaces would require more length ($22.5' \times 2 = 45'$) than is available (about 40') without construction revisions. This item could be missed because OPB didn't supply a dimensioned plan showing the lower garage level.

4. Parking area perimeter landscaping: The upper deck of the structured parking is quite a bit less than 4' above the grade to the west, but OPB isn't showing the required 5'/L2 landscaping on the west in the ADA ramp vicinity. You can look from the sidewalk directly over the ramp at the unscreened pavement and vehicles there. This item could be missed because OPB didn't submit drawings showing the height of the parking deck over the adjacent grade.

5. Parking space exiting: Currently, vehicles in the lower level of the parking structure and the nearby outdoor parallel spaces can exit to the street without moving other vehicles. That is true even when loading vehicles are in the loading area in the east driveway, because exiting vehicles can exit north to Nevada because the driveway is two-way between the parking garage exit and Nevada. But OPB proposes to make that one-way. That means vehicles all vehicles on the ground level must exit THROUGH the loading spaces, so anytime a vehicle is loading (which can last for hours) the loading vehicle will have to be moved in order for cars to exit. That violates the standard. There isn't enough driveway width for vehicles to exit southbound past a required 10' wide loading space, either.

6. Driveway width: OPB claims the zoning code requires the east driveway to be 12' wide, but states it is only 11-6 wide near the cantilevered area of the structured parking. I disagree with OPB's position that that's a parking aisle, but if OPB is correct, then a modification or widening of the driveway is required.

I hope this is helpful. No need to respond, although I'd be happy to answer any questions.

Mike

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OPB 2021-012886-000-00-LU OPB my proposed site plan

mike dowd <dowdarchitecture@gmail.com>

Tue 4/20/2021 5:50 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

 1 attachments (311 KB)

IMG_6415.jpg;

Hannah,

I drew this site plan to show specifically how OPB could provide much better screening and other protections for us and its other neighbors, while maintaining the functionality that OPB desires. It even works much better for OPB in some aspects than what OPB has proposed. I believe it also meets the approval criteria, unlike what OPB has proposed.

I realize OPB's application isn't complete, but I thought it would be helpful for you to see this. Feel free to share it with OPB. OPB still refuses to communicate with me about this review.

OPB has been arguing that because ALL the required landscaping won't fit along the east property line that they shouldn't be required to do ANY. That makes no sense, because as this plan shows, some landscaping will fit, and some is better (and more approvable) than none.

I tried to include as much screening landscaping as can fit along the east property line while still allowing good driveway and loading functionality. Then, since the east property landscaping still falls well short of the 5'/L2 requirement, I've added reasonable mitigation measures--additional plantings at the east wall of the parking structure, denser tree screening along the south driveway, protections against light pollution that the required landscaping would have buffered, etc. Since these measures all address impacts to neighboring people and uses resulting from granting the modification to provide less than the required landscaping, they all seem like valid conditions of approval for that.

I also show keeping the east driveway two-way between the parking structure exit and Nevada, so vehicles can exit the garage onto Nevada. OPB's proposal to eliminate that would make things significantly worse for us (much more driveway traffic near our house) and for OPB (drivers could only turn northbound onto Macadam). Currently, almost all parking garage traffic exits north to Nevada, and a significant number of those drivers turn left (southbound) onto Macadam. OPB's one-way scheme would force them to drive around blocks in the neighborhood to turn around.

There are also some items listed that address the satellite dish area's nonconformance with prior approvals and dangerous blocking of sightlines at the rail crossing, and a few other miscellaneous items (trash not being screened, etc.).

During the comment period, I can add comments about this design that specifically address the approval criteria, and give more specific reasons why I believe this design works.

The numbers on the site plan refer to the items listed:

South driveway:

- 1--6' h. solid fence entire length of south property line, except for approx. 10' at west end for traffic visibility. Prohibit barbed wire
- 2--continuous closely spaced tall. columnar evergreen trees to buffer view of south facade, bed at least 5' wide except for small reduction at turn if needed (but still provide trees).
- 3--3 tall, fast-growing evergreen trees at SE corner

(Note: The wider bed, columnar trees and solid fence provide screening from the south without having trees spread onto Marque Motors' property. The fence also prevents OPB from damaging Marque Motors' customer vehicles by leaf-blowing grit at them.)

East driveway:

- 4--6' h. solid fence entire length of east property line, except for 10'-15' feet at the north end for traffic visibility. Section labeled "optional" isn't necessary if landscaping is provided per Note #7
- 5--two-way driveway retained between structured parking entrance and Nevada; one-way retained for remainder of driveway between structured parking exit and S Macadam. "Left turn only " sign and pavement markings to direct all vehicles exiting parking garage north to Nevada
- 6--all exterior lights on south and east driveways to be 100% shielded--no direct visibility of light source from our property or park. Also use timers/dimmers to reduce light levels during off-hours
- 7--remove all 4 parallel parking spaces and replace with landscaping, OR move structured parking entrance one bay north, and create loading-only space where current garage entrance is, with remaining three parallel spaces converted to planting (This deletes one tree, but adds a loading space that doesn't block driveway, and shortens the length of the two-way driveway section
- 8--Two options (I'm happy with either one):
 - a) provide approx. 3' wide planter with tall columnar evergreen trees, leaving about 11' for driveway. Pros: provides screening, and could eliminate need for Type III review. Cons: narrower driveway
 - b) no planter. Pros: allows wider driveway. Cons: requires Type III review, doesn't provide buffering trees or pervious area for stormwater treatment
- 9--Use pavement markings and signage to define loading area adjacent to the overhead/loading door. Designate driveway south of that as :NO LOADING/NO PARKING" to keep that activity away from our house and neighbors

(Note: There is about 16' width at south end of east wall and just under 14' at north end, between wall and east property line. That's plenty (esp. south of the loading area) to include tall, narrow screening trees, even with a 12' wide driveway. All the east driveway items--lighting, driveway direction, etc.--are reasonable mitigations that should be required to allow waiving the 5'/L2 requirement.)

Satellite area:

- 10--provide 5'/L2 at north, south and west sides of parking area--measured from property lines, not sidewalk
- 11--move fencing at south side of satellite dishes north 5', and plant with 6' min. tall evergreen hedges, except drop to 3' high at SE corner for visibility between RR tracks and pedestrians. Plant 6' min. tall evergreen hedge along east property line in front of east fence. Fence (on all sides) to be 6' tall, solid, without barbed wire.
- 12--plant 6' tall evergreen hedge in front of west satellite fence
- 13--move north fence inward of (south of) existing tall evergreens, and record deed requirement or take other steps to ensure trees those trees are maintained, because they are under a different ownership

(Note; All these are necessary to correct violations of the satellite dish area with prior land use approvals. The current violations are not just technicalities--they create an ugly entrance to Willamette Park that is dangerous because the illegally-moved fence blocks sightlines at the rail crossing.)

Miscellaneous:

14--fully screen trash area as required by code

15--provide code-compliant short-term bike parking near main entrance

16--use timers/dimmers to reduce light pollution into park from main entry canopy and parking area lights (both parking levels) during off-hours

17--use timers/motion sensors to limit light levels through OPB's windows visible from park and neighbors when interior spaces are not occupied

(Note: The lighting items are needed to reduce light pollution into Willamette Park--those lights would be blocked if 5'/L2 landscaping was provided along the east property line.)

I'd be happy to discuss any of this with you.

Mike

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OPB 2021-012886-000-00-LU OPB one-way driveway problems

mike dowd <dowdarchitecture@gmail.com>

Wed 5/5/2021 5:07 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

 2 attachments (1,009 KB)

IMG_6927.jpg; IMG_6928.jpg;

Hannah,

One of the things I thought was worst about OPB's proposal was its plan to change the east driveway to be entirely one-way. (Currently it's only one-way south of the lower level parking garage entrance/exit, and two-way between there and Nevada.)

I asked Kyle Davis of OPB over a week ago if OPB still proposes to make the driveway one-way. He has not responded, and I don't expect him to.

I'm hoping that OPB will drop the one-way idea when it submits its revised info to you, because it would affect us and others negatively. I'm sending this to you now, instead of waiting until then, because if OPB keeps the one-way proposal in its application, it will also create additional non-completeness issues (more modifications needed, etc. per below). Feel free to forward this to OPB if you think that makes sense.

If you want a quick understanding of why the one-way only driveway is bad, the attached site plans show all the main points at a glance. You don't need to read the rest of this unless OPB continues to pursue the one-way driveway when it submits new info to you.

For more detail, here's a list of reasons why it's bad, with specifics following:

- a. It's not necessary**
- b. It would create more traffic and noise impacts for us and others around OPB**
- c. It would increase traffic in the neighborhood west of OPB**
- d. It would make the Macadam sidewalk more dangerous**
- e. It's unworkable with the proposed loading area, so unapprovable for that reason alone**

a. It's not necessary

OPB claims there is a 12' minimum width requirement for one-way driveways in the zoning code, citing a standard for parking area aisles, which does not apply for the driveway east or south of the building (it is a "driveway", not an "aisle" in the zoning code).

The two-way section behind the parking structure may count as an "aisle" due to the parallel spaces alongside it, but that section was already approved as two-way in the 1987 land use review for the original building, and has been two-way ever since. That means it could be approved again through a modification, if that were needed. Or, OPB could simply remove the two parallel spaces so it would clearly be a "driveway" and not an "aisle" so the aisle dimensions wouldn't apply. (I think those should be converted to landscaping anyway, as a partial mitigation of not providing the required 5'/L2 landscaping along the east property line.)

Also, Portland Bureau of Transportation considers only 20' an acceptable width for two-way city streets with parallel parking on one side. So OPB's view that the current width of about 25' won't work as two-way makes no sense. Of course a width that PBOT considers fine for city streets will work fine for OPB's private driveway! It's only a few yards long, has excellent visibility between entering and exiting vehicles, and has a fraction of the traffic of a public street. The two-way section could also be shortened per my earlier site plan.

Almost all vehicles exiting the parking garage exit northbound to Nevada now. It works well for everyone. It's a shorter distance to Macadam than exiting southbound, and coming out on Nevada allows vehicles to exit onto Macadam in any direction at a signalized intersection, whereas vehicles exiting southbound can only turn northbound onto Macadam. Nevada at that location is also a dead end serving only OPB, so no other vehicle traffic is impacted by OPB exiting onto Nevada. (Park traffic at Nevada is pedestrian and bike only, and is on the north sidewalk on Nevada, so unaffected by exiting OPB vehicles.)

b. It would create more traffic and noise impacts for us and others around OPB

Under OPB's one-way proposal, ALL garage traffic would head south towards our home, a several-fold increase in traffic, noise and activity. The proposed fence would not significantly reduce noise. OPB's tall building reflects noise outward, amplifying it for us and for the park and its wildlife and users. Because delivery vehicles would block vehicles exiting OPB's parking garage, it could encourage honking when that happens, and it could encourage OPB to make large deliveries off-hours to avoid driveway conflicts, which would increase noise for us early and late.

c. It would increase traffic in the neighborhood west of OPB

Currently, all drivers exiting the lower level of the parking structure who want to go southbound on Macadam simply turn left at the Nevada signal. But with the proposed one-way-only driveway, all would have to exit onto Macadam from OPB's south driveway, where they could only turn right (due to the median) and head northbound on Macadam. Drivers wanting to go south would have to quickly cross two lanes to get to the left turn at Nevada and head west into the residential neighborhood to go around the block to get back on Macadam heading south--more traffic, more turns, more conflicts with pedestrians and with other vehicles. Some OPB drivers might try to avoid this by driving the wrong way out of the garage to get to Nevada, which would be dangerous with a one-way driveway.

d. It would make the Macadam sidewalk more dangerous

Instead of exiting onto Nevada and entering Macadam at the Nevada signal, all vehicles leaving OPB's lower parking level would have to exit OPB's mid-block driveway onto Macadam. That increases vehicle/pedestrian conflicts there several-fold. Because most exit at evening rush hour, when traffic on Macadam is heavy, they'd pull forward across the sidewalk to see, blocking it while looking south to turn north--even more dangerous for sidewalk users.

e. It's unworkable with the proposed loading area, so unapprovable for that reason alone

Currently, delivery vehicles stop in the east driveway near the garage door to load/unload. Some trucks stay for hours. That's fine, because vehicles exiting OPB's lower parking level aren't blocked, because they exit northward to Nevada St. on the two-way driveway.

But with the proposed one-way only driveway, vehicles exiting the garage would have to head south, where they'll often be blocked from leaving by delivery vehicles parked in the loading area. Even if

there is no landscaping there, the clear width (about 14'-15') isn't enough for vehicles to get past large trucks, or even smaller delivery vehicles unless they pull as far to one side as possible. It's also unsafe to force vehicles exiting the garage to squeeze past vehicles actively loading/unloading, going in and out of the building, etc. And there certainly isn't enough width to pass a loading vehicle without intruding into the required 10' wide loading area.

Summary

In comparison to the current configuration, the proposed one-way only driveway:

- is worse for us and the park's wildlife and users because it increases traffic, noise and activity close to us
- is worse for OPB because cars exiting OPB's parking garage will have to drive further to exit the property, can't turn south onto Macadam, aren't protected by a signal when leaving, and will often be blocked from leaving by delivery vehicles
- is worse for people walking on the Macadam sidewalk because of additional OPB vehicles driving across the sidewalk at OPB's driveway
- is worse for the neighborhood west of Macadam because OPB vehicles needing to head south will have to use residential neighborhood streets to turn around to go south
- is worse for delivery drivers because they will often be blocking exiting OPB vehicles and/or have them trying to squeeze past them when they are loading/unloading
- is unapprovable because the code doesn't allow a parking configuration in which parked vehicles (delivery vehicles in the loading area) block other vehicles from exiting the parking area

I can't think of any advantage the one-way scheme has for anybody.

Mike

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OPB LU 21-012886 DZM GW additional modifications needed

mike dowd <dowdarchitecture@gmail.com>

Tue 9/7/2021 5:03 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

Hannah,

When I reviewed the first round of submittal info, I saw several things that I believe needed additional zoning modifications unless the design was changed. Most of those still remain:

- 1. East building setback**--it violates the 1987 approvals and needs a modification to be legalized
- 2. Short-term bicycle parking**--none is provided that meets code. The rack shown in the building permit drawings for the recent renovation was never installed.
- 3. Trash area screening**--trash area isn't screened per code. OPB's arguments that it's exempt, and will be screened adequately by the proposed east fence, are both wrong.
- 4. Satellite dish area--landscaping and fencing** locations don't comply with 1987 approved design. Additionally, one I missed--ground-mounted mech. equipment must be screened, with screening "tall enough to screen the equipment" (33.130.235.C. The satellite area fencing has a real safety issue, which is why I've been stressing it.
- 5. Proposed two parallel parking spaces** next to garbage area don't meet minimum length standard (minor issue to me). DOWL claimed all spaces meet the standards, but these do not. They're about 5' short.
- 6. Required 5'/L2 landscape buffer at upper level of structured parking** is missing at the accessible ramp area. The buffer is required because the top deck of the structured parking is within 4' of adjacent grade and there is no roof over it. Only grass and 2 trees are shown (minor issue to me).

It's important to address these in this review. Using the east building setback as an example, OPB is claiming the setback violation is a reason to allow granting the modification to not provide either the 3' 1987-required buffer, or the 5'/L2 buffer. That's a MAJOR modification. But it's unfair and illogical to say that it's such a significant factor that OPB should be exempted from those buffer requirements, but so insignificant that OPB shouldn't have to request a modification to legalize it.

Further, if it's not addressed in this review, it leaves the possibility open that someone (me or otherwise) could file a zoning violation complaint against it, and assuming that complaint was recognized (because a 200-foot-long, three-story wall intruding several feet into a required setback next to a residential neighborhood and natural area of a park is a significant violation) then OPB would have to request a modification AFTER this review, and perhaps after all the work under this review was done. It could be likely that providing mitigation that would allow that setback modification to be granted could mean having to tear out work OPB had just completed--say making the now-built fence taller, or enlarging just-completed landscaping beds to add more trees, etc. This would be a mess for OPB and everyone.

Finally, it's critical for the Design Commission to know that this violation exists. How can it rule on the east landscaping modification without knowing that the whole east side of the building violates the 1987 conditions? It shouldn't be me blindsiding them with that info during the hearing.

That's just using the east setback violation as one example. I could make similar arguments for each of the other violations. The problems created by not addressing them in this review are exactly why

Rebecca Esau agreed with me in our meeting a couple years ago that they should be addressed in this review.

And one more related thing--the nonconforming covenant between OPB and the City clearly states that the items listed in the agreement may not be all the items needing upgrading. OPB agreed that if the City identifies additional items that are nonconforming, OPB must make upgrades before the same deadline. So not including them all within this review would make this review meaningless, since there'd need to be another review immediately.

I'd be happy to talk to you about any of this.

Mike

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Re: OPB LU 21-012886 DZM GW four trees now to be removed

mike dowd <dowdarchitecture@gmail.com>

Tue 9/7/2021 3:21 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

Hannah,

Yes, I'd like two-way between S Nevada and the lower level parking entrance (and one-way from that parking entrance southbound out to Macadam).

I'd also like those four large trees to remain,

If I had to choose only one, I'd definitely choose keeping the driveway 2-way, because switching to one-way would mean ALL the lower level garage traffic (that almost always exits north to Nevada) would now be forced to go south down to our house, then out to Macadam at the driveway, where drivers can only turn right, meaning half the people leaving OPB (the ones who need to go south to go home) would have to circle through the neighborhood to turn around.

But like I said, the wo-way drive with the existing trees has worked fine since 1987 (and since I moved here in 2005). Also, when the fence goes in, it won't reduce the driveway width at all. Unlike further south (behind the main building) where the current paving extends several feet out into the rail r.o.w., the paving at this two-way section only goes to the OPB property line. OPB's curb that you see in the second photo, that separates the paving from the gravelly sloped drainage ditch, is actually not quite all the way out to the property line. So even with the new fence, the driveway will be no narrower than what has worked since 1987.

Mike

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On Tue, Sep 7, 2021 at 2:24 PM Bryant, Hannah <Hannah.Bryant@portlandoregon.gov> wrote:

Hi Mike,

I haven't had a chance to dive into the code section regarding dimensions for drive aisles. However, I had some questions for you on your preferences.

It sounds like you do want the driveway to be a two-way drive, and not one-way. And you do want the existing trees to remain. If there is a code conflict that precludes meeting code standards for a two-way drive aisle while also retaining the trees, do you have a preference about which element is more important to meeting the approval criteria?

I appreciate your thorough comments.

Best,
Hannah

From: mike dowd <dowdarchitecture@gmail.com>

Sent: Tuesday, September 7, 2021 2:03 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

Subject: OPB LU 21-012886 DZM GW four trees now to be removed

Hannah,

I want to make sure you noticed a new change to OPB's landscaping plans that shocked me. The four large trees on the east side of the parking garage are now proposed to be cut down.

These trees are the largest trees on OPB's property south of Nevada. They are prominent from the Nevada park entrance. They provide a huge amount of shade and screening. They even help screen the satellite dishes from our carport area at the front of our house.

These trees have always been shown by OPB to remain until this latest submittal. The four existing trees to be killed are very tall and large (10" to 18" caliper, 56" caliper total) but proposed to be replaced with tiny 1.5" caliper trees that will take decades to reach a similar size. The new ones are also shown so close to the wall (only a couple feet away) that there's no room for their branches to spread. You can see from the photos that the existing trees that are several feet further from the wall than the proposed ones need that space for their branches.

I recall from OPB's earlier submittal comments that DOWL asserted that it had no choice but to make the driveway in front of those four trees one-way because the driveway didn't meet the minimum 20' width for parking area aisles. (The earlier drawings show about 17' between the planter curb at the trees and the east property line.) Now that OPB and DOWL have realized that a one-way driveway was a poor idea, they seem to have decided that they must cut down those trees to make the driveway 20' wide.

That's wrong for these reasons:

--First, the parking area aisle standard may not even apply because that driveway is not in a parking area.

--Second, that area was approved as a two-way driveway in 1987.

--Third, I've lived here since 2005 and NEVER seen a conflict where a vehicle leaving and one arriving couldn't get past one another, or have one simply wait to enter the driveway until the other cleared it.

--Fourth, I showed a scheme in an earlier email to you where OPB could shorten the two-way drive length by moving the entrance to the lower level parking northward, which would make conflicts between entering and exiting vehicles even less likely.

--Fifth, if the two-way driveway really isn't code compliant, all the other reasons above create a perfect argument for approving a modification to allow the narrower driveway, so the trees don't need to be sacrificed.

What I see is OPB and DOWL killing off the four largest, most important trees on its site to make the driveway 3' wider than what already has worked fine for over 30 years. **This shouldn't be approved.**

Mike

PS Again, OPB does not communicate with me, so I'm not able to ask them about this.

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OPB LU 21-012886 DZM GW southeast corner tree confusion

mike dowd <dowdarchitecture@gmail.com>

Tue 9/7/2021 2:21 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

 2 attachments (2 MB)

01c4eac604f87be600a944c0daa2d3cb6a10ec45c3.jpg; 01d6326f327e7b3a72c949c70dd606570c6fca33bd.jpg;

Hannah,

The planting area at the SE corner of OPB's property is critical for me and my family, because it's the closest part of OPB's property to our home, and the location where the most effective landscape buffering can take place. In fact, it's the ONLY portion of OPB's east property line where OPB has agreed to do any landscaping at all.

OPB's information about this corner is confusing. There's a large tree there now. That tree is now shown on the survey and Existing Conditions plan after I complained about it being left off of the initial drawings. It is also now shown to be protected during construction.

But on the proposed landscaping plan, three new trees are proposed to be planted within the canopy of that tree. One of them is proposed to be planted within only a couple feet of the trunk.

That isn't practical. Either the new trees will harm the existing tree, or vice versa. It doesn't look like any thought has gone into this.

I'd prefer that that tree (and the small one east of it) be removed, and two (or three if possible) very large, dense evergreen trees be planted at that corner, to screen views of OPB's building and driveway from the south and southeast (the views we and others living on, working on, or using S Miles Street have).

OPB will not discuss this with me.

Mike

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OPB LU 21-012886 DZM GW erosion control plan flaws

mike dowd <dowdarchitecture@gmail.com>

Tue 9/7/2021 2:06 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

Hannah,

I looked quickly at the erosion control plan. Erosion control is a minor issue for me compared to the permanent changes. At the same time, we will be impacted as much as anyone by the construction. The plan doesn't protect surrounding properties well from mud runoff for a project that will take place in winter. It also encourages unnecessary construction traffic near us and on Macadam by making the Nevada driveway entrance ingress only.

Most of all, it shows sloppy thinking without much thought given to what's being drawn. OPB should be required to correct it.

OPB site south of S Nevada St.

South side:

--Shows tree protection extending several feet several feet into Marque Motors' property. Obviously that can't happen, and the area to be protected on Marque Motors' property is on the other side of a chain link fence anyway.

West and north sides:

--Development plans show tearing out all the grass and installing new landscaping along Macadam and Nevada, but no erosion control shown to protect the S. Macadam public sidewalk or Nevada from runoff

East side:

--Erosion control is shown along the property line, but the bulk of the ground disturbance involves removing OPB's illegal paving and disturbing ground east of the property line, in the drainage ditch, meaning lots of mud potentially being washed south, clogging the drainage ditch and potentially flooding our property (by clogging the drainage ditch and downstream culvert). Erosion control should be at the perimeter of the disturbance area, not the property line.

--Plan labels S. Nevada end of driveway as "ingress". It should be ingress/egress. Otherwise 100% of construction traffic will be forced to exit to the south, bringing 100% of it down as close as possible to our home. Also, some construction traffic will be equipment that cannot drive on S Macadam, and should be able to come and go between OPB's parking lots at Nevada and the east driveway, without having to drive on the State Highway.

Site north of S. Nevada (the satellite area and parking):

--Plans call for 5'/L2 landscaping on three sides of the parking area, which means substantial removal of asphalt since the planting beds aren't all 5' wide in from property line as required, and no modification is requested, but no erosion control is shown. If no work is being done to make the planting beds 5' wide on the property, a modification is required. **There has to be either erosion control or a modification.**

Mike

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OPB LU 21-012886 DZM GW "temporary" paving and garbage area corrections

mike dowd <dowdarchitecture@gmail.com>

Sat 9/11/2021 5:43 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

 3 attachments (3 MB)

01386f9ce77aa6ea3b8edc2fac227681f0a4662acf.jpg; 01d8b5d4d90a5f79549996a0b2b33cfd6199a58983.jpg;
019bbe0d1b7a75e86eb9849582342a8e5413b0be47.jpg;

Hannah,

Lots of OPB's revised information is still deceptive and/or untrue. Two examples involve the east paving within the rail r.o.w., and the garbage area screening. These are both issues I brought up in my earlier emails to you that I understand you offered to OPB and DOWL, and they are important to me, so it's frustrating that they declined to correct them:

Paving in the rail r.o.w. is not "temporary"

DOWL (narrative page 16) claims that the paving that OPB bootlegged several feet into the rail r.o.w. (violating its 1987 approval conditions) years ago to create eight illegal parking spaces is "temporary".

That's the same paving OPB and DOWL claimed didn't even exist in its first application submission. They didn't show that paving in their Existing Conditions survey or site plans. And the narrative claimed, ***"Temporary paving into the railroad right-of-way to facilitate construction of recent site improvements has been removed"***. The reality was that NO temporary paving was ever placed in the rail r.o.w. for that recent work (or any other time at least since I moved here in 2005) and no paving was removed.

The bootlegged pavement remains there today. It was there when I moved here in 2005. It appears in portlandmaps.com aerial photos dating back long before that. OPB was cited for it being there in 2018:

https://www.portlandmaps.com/detail/permit/2018-156250-000-00-CC/4197392_did/

In response to that violation citation, Stoel Rives, OPB's lawyers, told Michele Seward of BDS'S zoning compliance staff in August 2018 that that paving has been there "for over 25 years" .

Given all that, it's inconceivable that OPB would think that that paving was temporary, or (especially) that it has been removed. And it's inconceivable that DOWL never noticed it there prior to submitting site plans not showing it, and stating falsely that it didn't exist.

The paving IS finally proposed to be removed, so while the false "temporary" description doesn't interfere with that outcome, it does show how inaccurate the application is.

Garbage area IS exterior and DOES need screening

Unlike the "temporary" paving claim, the false garbage area claims will interfere with this review if not corrected.

One of OPB's most unsightly nonconforming items is its unscreened garbage/recycling area at the east edge of the ground floor of its parking structure. The attached photos show it--first from Willamette Park, next (day and night) from S Nevada St., a popular pedestrian/bicycle entrance into Willamette Park and the Willamette Greenway Trail. It has no walls on the south, east or north sides--the same sides from which it's visible from other properties.

Having a garbage area prominently visible from a public park entrance is EXACTLY the type of undesirable situation the zoning code's screening regulations intend to prevent.

It would be simple for OPB to screen this trash area with a fence. Instead, OPB and DOWL are claiming:

"The OPB site's garbage and recycling collection areas are currently provided within the interior of the parking structure, so this standard, which relates to exterior collection areas, does not apply."

That's absurd for several reasons:

--**First**, just because the containers are (mostly) under the upper parking deck doesn't mean they are not "exterior". If you're standing outside OPB's front door under its new entrance canopy, are you "inside the building"? Of course not. The zoning code doesn't define "exterior", probably because it didn't foresee anyone trying to claim that being outdoors under cover isn't "exterior". But it does have several definitions related to spaces that are covered but without walls, such as floor area, and those areas are NOT counted the same as the areas INSIDE the walls. The most relevant definition is probably for "exterior storage", which states, . ***"If goods are stored inside a building that is not enclosed on 100 percent of the area of its sides, it is considered exterior storage"***.

--**Second**, the garbage containers aren't even all under cover anyway (see first photo). That in itself throws out DOWL's argument.

--**Third**, the BES Stormwater Management Manual requires that ***"exterior solid waste storage areas'...are covered"***. That regulation wouldn't make any sense under OPB's and DOWL's view that being covered precludes being exterior:

<https://www.portlandoregon.gov/bds/49399>

So clearly OPB's garbage area IS exterior, and is NOT exempt from screening requirements.

OPB and DOWL also make another statement that isn't false, but is misleading. They claim correctly that the proposed fence will screen views of the garbage area from the east and southeast. What they DON'T point out is that the main exposed view of the garbage area is from the NORTH, from the public park entrance on S. Nevada. The day and night photos I took from that exact location show the direct view of the garbage won't be screened at all by the proposed fence, which will be at the left (east) side of the driveway.

So BDS and the Design Commission need to know that contrary to what OPB and DOWL claim, OPB's garbage area is not exempt from screening, and it needs to be screened from S. Nevada as well as from the east and southeast.

Mike

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Re: OPB LU 21-012886 DZM GW east setback is sufficiently wide to add landscaping

mike dowd <dowdarchitecture@gmail.com>

Tue 9/14/2021 1:59 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov> 1 attachments (949 KB)

01bc2990619c2bbc614ed6e37532cfd409ac8fbbbd-2.jpg;

Michael Dowd, President
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On Tue, Sep 14, 2021 at 1:50 PM mike dowd <dowdarchitecture@gmail.com> wrote:

Michael Dowd, President
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On Tue, Sep 14, 2021 at 1:46 PM mike dowd <dowdarchitecture@gmail.com> wrote:

Michael Dowd, President
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On Tue, Sep 14, 2021 at 12:57 PM mike dowd <dowdarchitecture@gmail.com> wrote:

That time works well for me.

I do have some questions and comments about things that definitely are part of this review, so it will be helpful to discuss those.

Michael Dowd, President
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753 S Miles Street
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On Tue, Sep 14, 2021 at 12:01 PM Bryant, Hannah <Hannah.Bryant@portlandoregon.gov> wrote:

Great -

I have a 1pm call and will try to call right afterward. I do have to leave my house by 2:30 to pick my kids up from school, so I have a hard stop at 2:25. We won't have a lot of time to chat, but I do want to make sure you know that I've received and shared your emails, and that I have met with the applicants to discuss the points that are related to this review.

Some of the items you've brought up - such as the building not being constructed in accordance with the 1987 approval - are outside the scope of this review. If you'd like to pursue those, you can work with the BDS code compliance team to do so. If code compliance determines that those are issues that must be resolved, the applicant may choose to pursue an Adjustment or subsequent Design Review for some issues. However, those issues are outside the scope of this review, which the applicant has pursued to address non-conforming upgrades triggered by their 2017 design review.

There's a lot of complicated process aspects to this review, including what elements are vested in 1987 code, what elements are vested in 2017 code, and what the best avenue is for addressing concerns related to existing or future non-conforming elements. If you have any questions, I'll do my best to answer them in our call, or will write them down and circle back if I need to double check answers first.

Best,
Hannah

From: mike dowd <dowdarchitecture@gmail.com>

Sent: Tuesday, September 14, 2021 9:27 AM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

Subject: Re: OPB LU 21-012886 DZM GW east setback is sufficiently wide to add landscaping

Hannah,

Yes, I should be here all afternoon, so anytime from 1 PM to 5 PM would work for sure. Best number is 503 891-5475.

Mike

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On Tue, Sep 14, 2021 at 7:32 AM Bryant, Hannah <Hannah.Bryant@portlandoregon.gov> wrote:

Hi Mike,

Do you have time to chat today? I appreciate all your time and focus on helping this site come into compliance with current code. I want to make sure you have a heads up about the scope of this review and next steps for existing or future site conditions that are not brought into conformance at this time.

I have already asked OPB to provide additional trees on the south end of the site. They have some legitimate operations concerns regarding protecting root zones, protecting trees and maintaining vehicle turn radius at the SE corner, but are exploring solutions. I am writing the staff report now, so it's possible these proposed solutions will not be shared until the 9/30 hearing. If so, the staff report will suggest conditions of approval.

We can discuss further in a call. Please let me know of any brief windows you have today.

Best,
Hannah

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From: mike dowd <dowdarchitecture@gmail.com>
Sent: Monday, September 13, 2021 11:06:29 PM
To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>
Subject: Re: OPB LU 21-012886 DZM GW east setback is sufficiently wide to add landscaping

Hannah,

I noticed I made some mistakes in directions, etc. that will make parts of this email confusing to follow and will change some numbers slightly, although they don't change any of the points. I'll send you the corrected version tomorrow.

Mike

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On Mon, Sep 13, 2021 at 5:32 PM mike dowl <dowdarchitecture@gmail.com> wrote:
Hannah,

OPB's request to provide no landscaping along its east property line is the most significant deviation from zoning requirements in this review. **OPB has NOT backed up its claim that it can't fit any landscaping along its east property line, behind its main building, or proven that it should be exempted from providing any.**

Why this matters

--OPB's requested modification involves not only waiving a significant required nonconforming upgrade (a 5'/L2 buffer 478' long) but also waiving the the 3' landscape buffer that OPB already agreed to provide in 1987, but then chose to violate by either removing it or never installing it.

--The proposed substitute (a wooden fence) will provide a good low visual screen, but otherwise will have none of the other benefits (shading, screening above 6', wildlife habitat, ability to capture stormwater, a 5' wide physical buffer preventing vehicle activity close to the property line) of the 5'/L2 screen. That screen at 478' long by 5' wide would provide nearly 2,400 sf of landscaped area and SIXTEEN large trees. Even the 3' wide landscape buffer has benefits the fence alone can't provide.

--The east property line is by far the most impactful part of the project for us, and for the park's users and wildlife.

Why OPB has not backed up its claim that no landscaping will fit

I think OPB is correct that there isn't room for landscaping along its east property line from S. Nevada southward to the northeast corner of its main building. But that isn't the case at the east driveway area behind the main building, towards the south end of the site.

OPB's main building is not parallel to the east property line. The setback is narrowest at the north end of the approximately 200' long building's east wall, and widens towards the south. OPB's existing conditions site plan and survey both show a building setback of 13.91' at the north corner of the building's east wall, a "drive aisle" 17.9' wide at the recessed loading door in the middle of that wall, and a "drive aisle" 16.7' wide at the south end.

I'm fine with having the proposed fence with no landscaping at the loading area. I'm also fine with no landscaping north of that (from the loading area to the northeast corner of the building) because that area tapers down to 13.91', which would leave only 1.91' available with a 12' wide driveway, which is a reasonable minimum driveway width.

(NOTE in regard to reasonable minimum driveway width: OPB's driveway width just north of the northeast corner of the building is 11.8' according to OPB. Since every vehicle driving south of that can fit through that width, a 12' width won't be restrictive. Also, the inside lanes on adjacent S Macadam (a State Highway) are about 11' wide, used by thousands of vehicles daily with a speed limit of 35 mph. If only 11' works for the state highway, certainly 12' is enough for OPB's private driveway at non-loading areas.)

SOUTH of the mid-building loading area, the available width at the narrowest (at the southeast corner) is 16.7'. The driveway widens by about a foot northwards to the loading area due to the building being skewed from the property line. That means that with a 12' wide driveway, there is a minimum of 4.7' and up to about 5.7' leftover. Subtracting about 6" for fence width and 6" for a curb, that yields about 3.7' to 4.7' for the actual planting bed, which is a perfectly reasonable bed width. **So there is no reason OPB should not be required to provide at least a 3' wide (excluding fence and curb) bed in that area.**

Why OPB'S claim that it can't provide landscaping in that area because the recent survey shows the building is closer to the east property line than what was approved does NOT hold up

The 1987 approval called for a setback of 30' to the rail centerline, yielding a 17' setback from east wall to east property line. OPB's current measurements show it is short of that by only 4" (16.7' is 16'-8") at the narrowest south end of the driveway, and well OVER 17' at the south end of the loading area.

The 1987 land use approval called for ***"a landscaped strip approximately 3' wide installed along the eastern edge of the site, except where loading accommodations require paving to the property line"***. OPB agreed to that condition in 1987, when OPB thought it had 17' width available. **So OPB's claim that it can't provide that in 2021 when it's only short by a few inches at the narrow end makes no sense.**

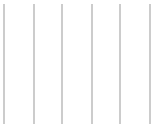
Also, OPB has nobody to blame but itself for building its building closer to the property line than what was approved. OPB shouldn't be let off the hook for providing landscaping that will fit just because it doesn't want to provide it. While I support the screening fence that's proposed, as mentioned above it doesn't provide the same benefits as landscaping. The landscaping will add pervious area, handle stormwater runoff from the driveway paving, add greenery, add screening taller than 6', and assure that the driveway is narrow enough that people won't be able to park along the driveway. It also won't interfere with loading because I'm not proposing to add any landscaping at the loading area.

So a 3' planter IS easily achievable from the southeast property corner eastward to the loading area at the middle of the east facade, and there's no reason OPB shouldn't be required to provide it.

Mike

PS I'll send you a markup of OPB's site plan to show this visually.

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OPB LU 21-012886 DZM GW design commission should be told about out-of-scope items

mike dowd <dowdarchitecture@gmail.com>

Tue 9/14/2021 10:25 PM

To: Bryant, Hannah <Hannah.Bryant@portlandoregon.gov>

Hannah,

Thank you for talking with me today. I'm looking forward to finishing our discussion Thursday.

In the meantime, I understand the limited scope of this review. I'd prefer ALL the nonconforming issues be included in this review, along with all the zoning violations. I think not doing that guarantees problems, such as OPB having to tear out work approved in this review as a result of decisions in some future review. I also think it's wrong to have OPB sign an agreement stating it will correct all nonconforming items, then only review the items that were identified by BDS earlier when OPB submitted plans that weren't accurate or complete enough for BDS to do an accurate assessment of the nonconforming issues. I also don't like that this all means OPB's neighbors will be going through years of additional waiting for protections that OPB should have been required to provide in the two-year time frame it agreed to.

Also, when I met with Rebecca Esau and Mike Liefeld in 2018 or 2019, I agreed not to file several code violation complaints against OPB because Rebecca and Mike agreed with me that the best way to handle the violations would be through this review. Now I'm finding out BDS is excluding those from the review, contrary to what I was told. I did my part (following through by not filing the complaints); BDS did not.

But given that that scope decision has been made (for now at least) I think it is important that the Design Commission understands the situation, and is told about what this review ISN'T addressing. The Commission cannot properly evaluate the work that IS within the scope without knowing about the outside-the-scope issues. It shouldn't be left to me to tell these things to the Commission.

Two examples of why it's important to tell the Commission about the potential additional violations and missing nonconforming upgrades:

--The east building setback violates the 1987 agreement. Even OPB has made that clear with its 13.91' setback dimension (vs. the 17' required). OPB is using the reduced setback to plead a hardship that makes it impossible to fit the required landscaping behind the building. Even though it isn't ruling about that violation now, the Commission should be told that that hardship was created by OPB when it chose to violate the 1987 approval conditions. **It's already not fair to OPB's neighbors that BDS is allowing OPB to use plead that hardship without requiring the setback to be legalized through an adjustment--the least BDS can do is tell the Commission that the violation exists.**

--The satellite dish area's main issue is that the fence was approved in 1987 set back several feet from the S Nevada sidewalk. OPB then moved the fence out to the sidewalk without approval, blocking critical sightlines between rail crossing users and the trolley, making the crossing dangerous. The Commission should know, when it considers allowing that fence to be solid, that its location violates the 1987 approved plans. They should also know that that violation means OPB could be

forced to tear out work the Commission may approve or require, or even that the Commission may be requiring work that a Plans Examiner cannot approve because it conflicts with the 1987 approvals. In the worst case, someone crossing the tracks will be killed by the trolley because the Design Commission approved making the fence taller and solid without knowing that the fence location is a zoning violation that is creating a hazard.

So, even though they are outside the scope of this review, I believe it's important for the Design Commission to be told--by BDS--about these items that may need future reviews and/or corrections--and not just in a general statement, but in a list similar to what I gave you.

Mike

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STOP

NO PARKING
THIS BLOCK

LOOK

CAUTION
HOLE IN ROAD







THIS
BLOCK

LOOK



LOOK

BEFORE ENTERING
TO SEE AND HEAR
ONCOMING TRAINS
ALWAYS STOP FIRST

RAILROAD
CROSSING
AHEAD



LOOK

LOOK

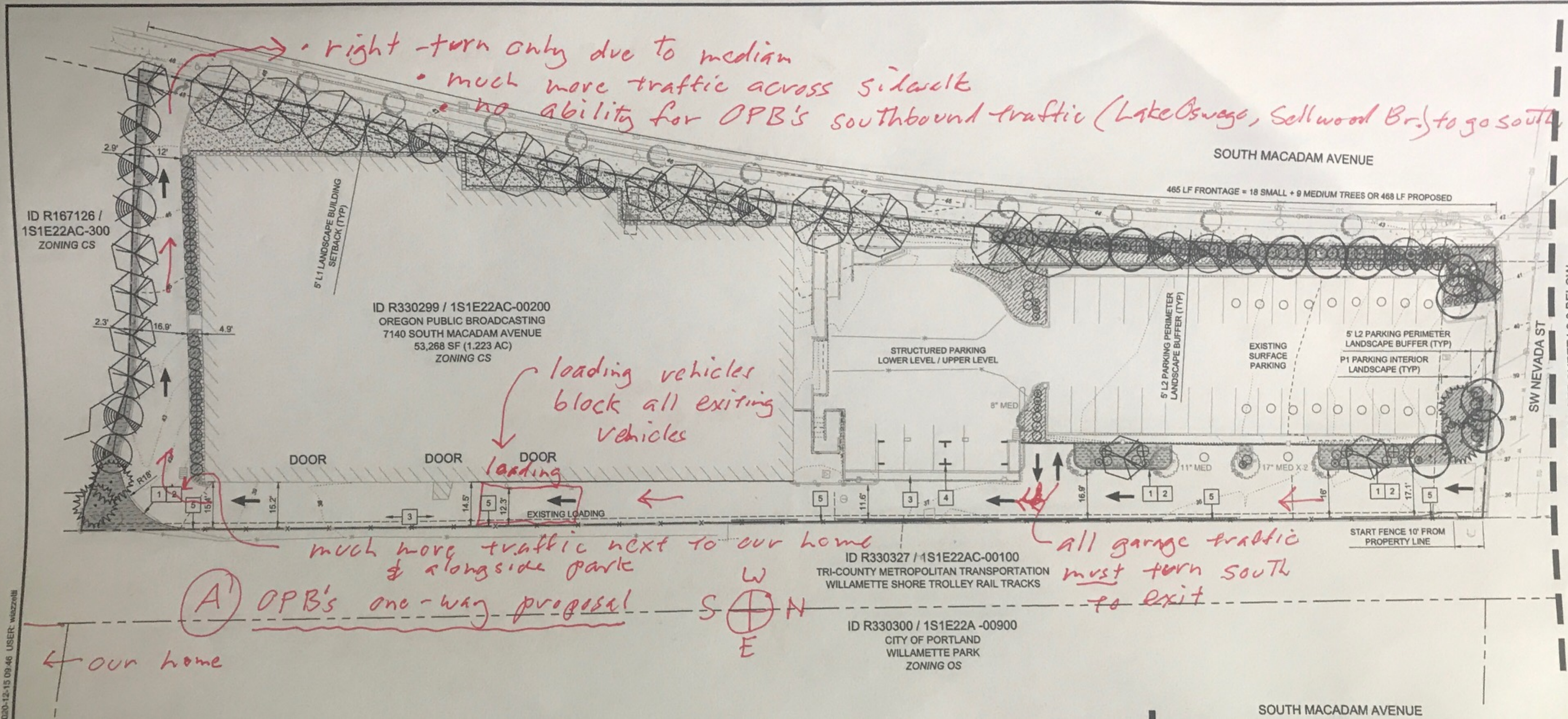
LOOK BOTH WAYS

STOP

REP. TO CROSS WILLAMET



030-12-15 09:46 USER: wiazze



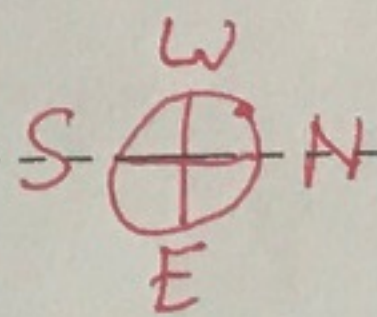
• right-turn only due to median
• much more traffic across sidewalk
• no ability for OPB's southbound traffic (Lake Oswego, Sellwood Br.) to go south

loading vehicles
block all exiting
vehicles

much more traffic next to our home
& alongside park

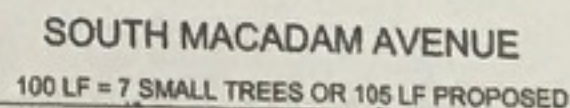
all garage traffic
must turn south
to exit

(A) OPB's one-way proposal



← our home

MATCHLINE, SEE SHEET L3.0 BELOW



Leave driveway 2-way between
garage exit & Nevada

← our home

MATCHLINE SEE SHEET L3.0 BELOW

EXISTING MONUMENT SIGN

SW NEVADA ST

START FENCE 10' FROM
PROPERTY LINE

2-way

W TRI-
W
N
E

SAVED DATE 2020-12-15 09:46 USER: wiazzeiti