

# OPB NONCONFORMING UPGRADES

Portland, Oregon

A Land Use Application For:  
**Type III Design Review with Modifications**  
**Greenway Review**

Submitted: February 8, 2021

Updated: August 5, 2021

Applicant:

**Oregon Public Broadcasting Foundation**

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**Exhibits**

- A. Application Form
- B. Early Assistance Summary (EA 19-269332)
- C. Early Assistance Summary (EA 20-121512)
- D. Nonconforming Upgrades Option 2 Covenant (Document 2018-052116 in Multnomah County)
- E. Copy of DZ 15-87 Staff Report and Decision (November 7, 1988)
- F. Existing Conditions Survey (*Updated 8-5-2021*)
- G. Plan Set (*Updated 8-5-2021*)
- H. Copy of DZ 15-87 Decision to Eliminate Condition of Approval #5 (*Submitted 8-5-2021*)

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## 1.0 Introduction

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### General Information

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<b>Project Location:</b>	7140 South Macadam Avenue	
<b>Tax Lot Information:</b>	1S1E22AC-00200, 1S1E22A-00800	
<b>Zoning:</b>	<u>Current</u>	<u>Vested<sup>1</sup></u>
	Commercial Mixed Use 2 (CM2)	Storefront Commercial (CS)
	Design overlay (d)	Design overlay (d)
	Centers Main Street overlay (m)	River General overlay (g)
	River General overlay (g)	Macadam Plan District (M)
	Macadam Plan District (M)	
<b>Comprehensive Plan:</b>	MU-C (Mixed Use – Civic Corridor)	
<b>Project Site Area:</b>	1.44 acres	
<b>Previous LU Approvals:</b>	DZ 15-87 GP 022-88 LU 10-126156 LU 13-189448 LU 17-203778	

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<sup>1</sup> This application is vested to the zoning in effect on September 15, 2017, the date of the original building permit submittal (17-241498 CO) that triggered nonconforming upgrades.

## 2.0 Project Summary

### Existing Conditions

Oregon Public Broadcasting (OPB)'s project site (OPB site) consists of two tax lots (1S1E22AC-00200 and 1S1E22A-00800) totaling approximately 1.44 acres located along South Macadam Avenue, with South Nevada Street running east-west between the two tax lots. The main OPB facility is comprised of an approximately 54,000 square-foot office and broadcast studio building, parking (some structured parking and some surface parking) and driveways on tax lot 200 on the south side of South Nevada Street. Surface parking, satellite antennas, and a generator are located on tax lot 800 on the north side of South Nevada Street.

Access to the site is provided via South Nevada Street. A drive aisle of varying width runs along the main OPB building's east and south side to a secondary right turn, exit-only driveway onto South Macadam Avenue. The OPB site currently provides 77 total parking spaces. Of the site's total available parking spaces on both tax lots, 39 spaces are considered surface parking while the remaining 38 spaces are considered structured parking.<sup>2</sup> Five (5) head-in (90°) structured parking spaces are currently nonconforming per Table 266-4 as they do not allow for a minimum 20-foot wide one-way drive aisle and are proposed to be replaced with two (2) parallel parking spaces. An existing conditions survey is included as Exhibit F and is also shown on sheet L2.0 of the plan set, included as Exhibit G.

Both tax lots are currently zoned Commercial Mixed Use 2 (CMU-2), with Design (d), River General (g) and Centers Main Street (m) overlays.<sup>3</sup> Both tax lots have a comprehensive plan designation of Mixed Use-Civic Corridor (MU-C) and are within the South Portland Neighborhood Association. As the project is proposing site alterations to meet the requirements of an "Option 2" Nonconforming Development Assessment Covenant as described below, the site is vested to the zoning in effect at the time of the permit submittal that triggered the required nonconforming upgrades pursuant to Portland City Code (PCC) Chapter 33.258. Therefore, the vested zoning of both tax lots is Storefront Commercial (CS), with Design (d) and River General (g) overlays. The tax lots are also within the Macadam Plan District area. A vicinity map is included with this narrative as Figure 1, and a zoning map is included as Figure 2. Surrounding uses are identified in Table 1 below.

**Table 1: Surrounding Uses**

	Zoning	Use
<b>North</b>	CM2dgm (CS)	South Nevada Street, Surface Parking, Offices
<b>South</b>	CM2dg (CS)	Commercial retail
<b>East</b>	CM2dg (CS)	TriMet right-of-way, Willamette Park (across TriMet right-of-way), single-family residential (across TriMet right-of-way to the southeast)
<b>West</b>	CM2d (CS)	South Macadam Avenue, Commercial retail (across South Macadam Avenue)

### Project Background and History

The OPB site has been subject to the following prior City of Portland (City) land use reviews:

- **DZ 15-87** – Design Review approval of the existing OPB three-story office building and parking structure.

<sup>2</sup> Surface parking spaces are those that are uncovered and within four feet of adjacent grade per PCC 33.266.130.G.2

<sup>3</sup> Centers Main Street overlay only applies to tax lot 800.

- **GP 022-88** – Greenway Review approval of renovation of the existing building and three-story addition.
- **LU 10-126156** – Design Review approval of an 81-square foot addition to accommodate a new internal stairway.
- **LU 13-189448** – Design Review approval of a new generator on a concrete pad, surrounded by a stained wood screen on the north parking lot.
- **LU 17-203778** – Design Review and Greenway Review approval for exterior upgrades, including three new windows and canopies; a new ADA ramp and pedestrian stairs; five new rooftop HVAC units; landscaping a new garage loading door.

OPB began various site improvements and upgrades to their facilities in 2017, with a Design Review and Greenway Review (LU 17-203778) facilitating certain exterior improvements as identified above. In conjunction with a building permit submitted that year (17-241498 CO), the City's nonconforming upgrades requirements pursuant to PCC 33.258.070 were triggered.

To comply with PCC 33.258, OPB elected to enter into an "Option 2" Nonconforming Development Assessment Covenant (covenant). This covenant was signed and recorded on May 16, 2018 as Document 2018-052116 in Multnomah County, and is attached as Exhibit D. This covenant requires the applicant to upgrade certain aspects of their site that were deemed nonconforming per the code in effect at the time of the original building permit submittal. The covenant includes a list of nonconforming site elements that must be brought into conformance, or an adjustment or modification must be sought if conformance is not feasible. Due to COVID-19, the original covenant deadline, June 4, 2020, has been extended to January 1, 2022. See PCC 33.258.070.D.2.d.(2), as amended by Ordinance No. 190076.

## Project Summary

The proposed improvements bring the site as close to conformance with the applicable nonconforming upgrade standards as feasible. The project includes revisions to the existing development such as the elimination of existing parallel parking spaces to allow for new landscape planters, new perimeter and interior parking lot landscape plantings, and new completely sight-obscuring fencing, which provide increased screening from adjacent properties and uses while also moving the OPB site closer into conformance with the development standards identified in the covenant. Despite these changes to the site, the applicant is unable to meet, and therefore requests modifications to the following code standards through this Design Review application:

1. **PCC 33.266.130.G.2** – Parking area setbacks and perimeter landscaping, specifically along the OPB site's eastern boundary (Modification #1).
2. **PCC 33.266.310.E** – Loading area setbacks and perimeter landscaping adjacent to the OPB site's existing loading spaces along the site's eastern boundary (Modification #2).
3. **PCC 33.130.270.C.1.a** – Limitations on completely sight-obscuring fence heights along street lot lines, specifically along the South Nevada Street lot line adjacent to the satellite dish and generator area (Modification #3).

The OPB site is constrained by existing development conditions that necessitate modifications to PCC 33.266.130.G.2 and 33.266.310.E. The primary constraint is the limited setback distance between the building and the eastern property line, which constrains the vehicular and loading circulation area along the building's east side where loading access for the active broadcast studio exists. Because of this condition and in lieu of strict adherence to PCC 33.266.130.G.2 and 33.266.310.E, OPB proposes to provide

a six foot completely sight-obscuring wood fence instead of a five foot landscaped buffer meeting the L2 standard as required by PCC 33.266.130.G.2 and instead of a three foot wide landscape buffer imposed for the east property boundary under DZ 15-87 condition of approval #3. This six foot sight-obscuring wood fence is proposed along the entirety of the site's eastern boundary.

In addition, a six foot completely sight-obscuring wood fence is proposed around the satellite dish and generator area (ground-mounted mechanical equipment) on its north, south, and east sides, which meets the F2 standard, in order to adequately screen this equipment. However, as fences that are more than 50 percent sight-obscuring may only be up to 3.5-feet high within ten feet of a street lot line (South Nevada Street) per PCC 33.130.270.C.1.a, a modification is necessary to allow the six foot completely sight obscuring fence to be located within ten feet of this lot line. Due to operational requirements of the equipment and width limitations adjacent to the satellite dish and this lot line, the fence cannot be moved any closer to the satellite dish, and landscaping that meets the L2 standard will interfere with the operation of the adjacent satellite dish upon maturity of any trees planted in this area, as the dish typically faces due-south and southeast.

Further, Design Review is required to remove condition of approval #3 from the OPB site's original design review approval (DZ 15-87) that imposed an approximately three foot wide perimeter landscaping requirement along the eastern boundary of the site, and to review the proposed modifications. Greenway Review is also required because the proposed improvements do not qualify for any of the exemptions listed in PCC 33.440.320.

## **Project Description**

Various improvements identified on Exhibit 1 of the covenant have been completed and/or require no further action as described in the staff responses, including the following items:

- Exterior display, storage, and work activity areas (PCC 33.120.245 and 33.248);
- Minimum landscaped areas (PCC 33.130.225);
- Tree density standards (PCC 11.50.05.B.2.g);
- Pedestrian circulation systems (PCC 33.130.240);
- Paving of surface parking and exterior storage and display areas on site; and
- Bicycle parking (PCC 33.266.220).

The only remaining required upgrades include surface parking area perimeter landscaping requirements, mechanical equipment screening, interior parking lot landscaping requirements, and existing building setback landscaping requirements. Required upgrades that are the subject of this application are identified in Table 2 below.

**Table 2. Nonconforming Development Proposals**

Identified Nonconformity	PCC Standard(s)	Proposal	Modification Required
Perimeter Parking Lot Landscaping	33.266.130.G.2 and DZ 15-87	<ul style="list-style-type: none"> <li>Modification proposed on the OPB site’s eastern boundary (six foot completely sight-obscuring wood fence).</li> <li>Five feet of L2 landscaping proposed on the OPB site’s southern boundary.</li> </ul>	Yes (for PCC 33.266.130.G.2)
Mechanical Equipment Screening	33.130.235.C	<ul style="list-style-type: none"> <li>Six foot completely sight-obscuring wood fence proposed on the north, south, and east sides of the satellite dish and generator area (F2 standard), including a modification to allow the fence to be within ten feet of the street lot line on the area’s south side (along South Nevada Street).</li> <li>Landscaping proposed on the west side of the satellite dish and generator area (L2 standard).</li> </ul>	Yes (for PCC 33.130.270.C.1.a)
Interior Parking Lot Landscaping	33.266.130.G.3	<ul style="list-style-type: none"> <li>1,622 SF of landscaping proposed (1,575 SF required).</li> </ul>	No
Loading Area Setbacks Landscaping	33.226.310.E	<ul style="list-style-type: none"> <li>Modification proposed (six foot sight-obscuring wood fence).</li> </ul>	Yes (for PCC 33.266.310.E)
Existing Building Setbacks Landscaping	33.12.215 & 33.288.020.C	<ul style="list-style-type: none"> <li>L1 landscaping along five foot special street setback with South Macadam Avenue proposed.</li> </ul>	No

In order to complete the remaining improvements required for compliance with the referenced covenant, OPB requests approval of a Type III Design Review (including modifications) and Greenway Review.

Perimeter Parking Lot Landscaping

The site is subject to two standards for perimeter parking lot landscaping along the eastern property line: a condition of approval from a prior design review approval (DZ 15-87) and the current applicable code. Neither standard can be met, so this application requests the removal of the condition of approval and a modification to the current code standard (PCC 33.266.130.G.2).

A Type III Design Review is required to remove the following condition of approval (#3) from the OPB site’s original Design Review approval, DZ 15-87:

- 3. A landscaped strip approximately 3’ wide is installed along the eastern edge of the site, except where loading accommodations require paving to the property line.***

The three foot landscape buffer does not currently exist. Recent surveys of the site have revealed that the OPB building was constructed closer to the site’s eastern boundary than indicated in the 1987 Design Review application (DZ 15-87). As a result, the conditions on the east side of the building are constrained and vehicular circulation for general traffic, loading and emergency vehicles cannot be provided while at the same time maintaining a three foot landscape buffer which does not encroach into the TriMet railroad right-of-way. As a consequence, the applicant seeks to eliminate this condition of approval and proposes

to instead provide screening in the form of a six foot sight-obscuring wood fence installed along the site's eastern property line, a length of approximately 440 linear feet. A detail and image of the proposed fence is included on sheet L3.0 and L3.1 of the plan set. A copy of the of DZ 15-87 staff report and decision is included as Exhibit E.

In addition to the three foot buffer requirement from the 1987 Design Review approval, PCC 33.266.130.G.2 and Table 266-5 require a five foot setback landscaped to the L2 standard along the east and south property lines of the site. Site conditions on the east property line described above preclude compliance with this standard, so the applicant requests a modification to this provision as allowed under PCC 33.825.040. In lieu of a five foot landscaped strip at the L2 standard due to referenced space limitations on the site's eastern boundary, the applicant proposes a sight-obscuring six foot wood fence along this boundary.

On the site's southern boundary, a five foot landscape strip at the L2 standard is proposed, consistent with current zoning requirements and the obligations of the covenant.

#### Mechanical Equipment Screening

In order to comply with PCC 33.130.235.C, which requires L2 or F2 screening of ground-mounted mechanical equipment along a street, the applicant proposes a six foot completely sight-obscuring wood fence on the north, south, and east sides of the satellite dish and generator area within the OPB site, which meets the F2 standard. On the west side of the satellite dish and generator area, the applicant proposes landscaping meeting the L2 standard, in conjunction with the existing stained wooden screen which currently meets the F2 standard, to adequately screen the satellite dishes and generator from South Macadam Avenue.

As PCC 33.130.270.C.1.a limits completely sight-obscuring fences within ten feet of a street lot line to 3.5-foot or less in height, a modification is proposed to allow the six foot completely sight-obscuring fence to be located within ten feet of the lot line along South Nevada Street on the south side of the satellite dish and generator area. Due to the operational needs of the adjacent satellite dish, which routinely faces due-south and southeast, L2 landscaping cannot be installed as it will interfere with the operation of the satellite dish upon maturity of any trees planted. Further, the fence cannot be moved closer to the dish due to existing width limitations and the need for a clear path around the satellite dish for maintenance.

#### Interior Parking Lot Landscaping

The applicant proposes to alter the site's surface parking lot configuration so that more site area can be used for landscaping, which improves the ratio of landscaping to parking as required per the covenant. The changes include the removal of four (4) parallel parking spaces on the east side of the parking structure and the installation of a five foot landscape planter in their place, also allowing for a minimum 20-foot two-way drive aisle in this area for safer site circulation; egress from the site's covered parking structure will continue to allow right-turn and left-turn movements as a result. As identified on sheet L3.0 of the plan set, a total of 1,622 SF of interior parking lot landscaping is proposed, which exceeds the minimum requirement (1,576 SF) given the OPB site will provide 35 surface parking spaces (a reduction of four spaces).

#### Loading Area Setbacks Landscaping

PCC 33.266.310.E requires that loading areas comply with the minimum loading area setbacks and permitter landscaping requirements provided by Table 266-7. The OPB site's loading area is currently provided along the site's eastern boundary, which abuts commercially zoned property as identified on Figure 2. Therefore, these loading areas require a five foot landscape strip meeting the L2 standard or a

ten foot landscape strip meeting the L1 standard. As previously described, PCC 33.266.130.G.2 and Table 266-5 also require a five foot landscape strip meeting the L2 standard along the entirety of the site's eastern boundary (which overlaps the loading setback area), which cannot be provided due to existing site conditions and space limitations in this area, for which the applicant is requesting a modification. As with PCC 33.266.130.G.2, the applicant is requesting a modification to PCC 33.266.310.E, and proposes a sight-obscuring six foot wood fence in this area in lieu of the required landscape strip.

*Existing Building Setbacks Landscaping*

Additional landscape plantings are proposed throughout the site to meet current City requirements and improvements specified in the covenant. Proposed improvements and plantings are identified on sheet L3.0 and L3.1 of the plan set, including landscaping meeting the L1 standard along South Macadam Avenue, as required by PCC 33.288.020.C as South Macadam Avenue is subject to the special street setback designation per the City's official zoning maps.

No further alterations are proposed to the OPB site other than those required to meet the standards in the executed covenant. No changes to the site's uses are proposed. Compliance with conditions of approval of prior land use cases for the site is addressed in Section 3.0 of this narrative.

Figure 1. Vicinity Map

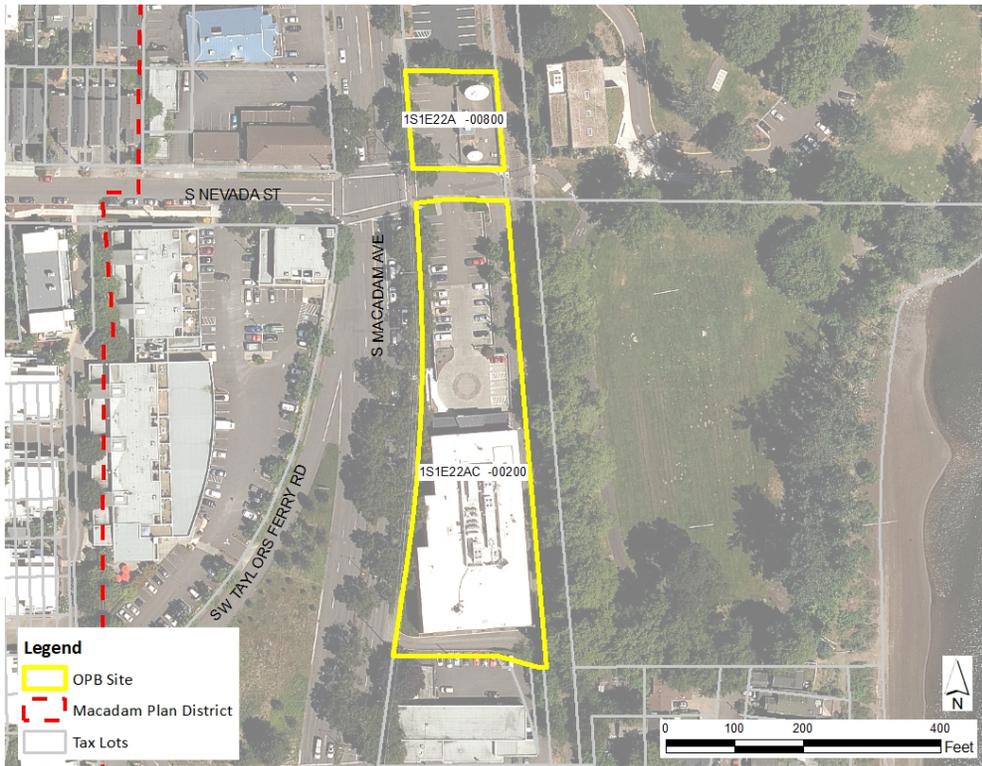


Figure 2. Zoning Map



### 3.0 Previous Conditions of Approval

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Below is a discussion of how the applicant's proposal will ensure compliance with conditions of approval from prior land use decisions on the property relevant to this application.

#### DZ 15-87

**1988 Design Review approval of the existing OPB three-story office building and parking structure (Applicant was Grayco Resources, Inc.)**

**1. There be no encroachment into the railroad right-of-way;**

**Response:** No encroachments into the railroad right-of-way are proposed. As identified on sheet L2.0 of the plan set, temporary asphalt paving and base rock within the TriMet right-of-way east of the OPB site is to be removed.

**2. Northernmost parking spaces south of SW Nevada are set back 15' from right-of-way;**

**Response:** The northernmost parking spaces south of South Nevada Street are setback 15-feet from the right-of-way as shown on sheet L3.0 of the plan set.

**3. A landscaped strip approximately 3' wide is installed along the eastern edge of the site, except where loading accommodations require paving to the property line;**

**Response:** Recent surveys have revealed that the existing building is closer to the eastern property line of the site than indicated in the 1987 Design Review approval plan set and, in order to maintain necessary vehicular, loading and emergency access around the east side of the building, compliance with this condition is not possible. As a consequence, the applicant requests a Type III Design Review to remove this condition of approval.

**4. The view corridor between the building and parking structure shall be enhanced by widening the steps and minimizing the retaining walls.**

**Response:** LU 17-203778 approved alternations to entry steps, ramps and retaining walls for the OPB site to meet current Americans with Disabilities Act (ADA) requirements.

**5. Artwork shall be installed on the blank wall at the southern end of the SW Macadam Avenue elevation.**

**Response:** As identified in Exhibit H, this condition of approval was subsequently eliminated and is no longer applicable to the OPB site.

**6. Staff shall review final plans to ensure compliance with these conditions**

**Response:** The above condition is a procedural requirement associated with the original approval and is unaffected by this request.

#### GP 022-88

**1988 Greenway Review approval of an existing building and three-story addition.**

**Response:** No conditions were applied to this approval.

**LU 10-126156**

**2010 Design Review approval of an 81-square foot addition to accommodate a new internal stairway. (Applicant was Oregon Public Broadcasting Foundation)**

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-106338 DZ GW. No field changes allowed."**

**Response:** The above condition was specifically required for building permit issuance associated with proposed improvements to the OPB facility as identified above. The applicant's proposal will not interfere with or obstruct continued compliance with this condition.

**LU 13-189448**

**2013 Design Review approval of a new generator on a concrete pad, surrounded by a stained wood screen on the north parking lot. (Applicant was LRS Architects, Inc.)**

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must be reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.4. The sheets on which this information appears must be labeled. "Proposal and design as approved in Case File #LU 14-189448 DZ. No field changes allowed."**

**Response:** The above condition was specifically required for building permit issuance associated with proposed improvements to the OPB facility as identified above. The applicant's proposal will not interfere with or obstruct continued compliance with this condition.

**LU 17-203778**

**2018 Design Review and Greenway Review approval for exterior upgrades, including three new windows and canopies; a new ADA ramp and pedestrian stair; five new rooftop HVAC units; landscaping and a new garage loading door. (Applicant was LRS Architects, Inc.)**

- A. As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE – Case File LU 17-203778 DZ." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."**
- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.**
- C. No field changes allowed.**

**Response:** The above conditions were specifically required for building permit issuance associated with proposed improvements to the OPB facility as identified above. The applicant's proposal will not interfere with or obstruct continued compliance with these conditions.

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## 4.0 Applicable Review Criteria

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The applicable PCC provisions are set forth below with findings that demonstrate the project's consistency with these provisions.

### 33.130 Commercial/Mixed Use Zones

**Response:** This application is vested to the zoning in effect at the time of the original building permit submittal (17-241498 CO) that triggered nonconforming upgrade requirements per PCC 33.258.070. The date of this submittal is September 15, 2017. Therefore, the base zone in effect at the time was Storefront Commercial (CS). The Commercial Zones (2017) chapter is addressed in this narrative.

### 33.130 Commercial Zones

#### 33.130.010 Purpose

**The commercial zones implement the commercial policies and plan map designations of the Comprehensive Plan. [...]**

**Response:** This application is vested to the zoning in effect at the time of the original building permit submittal (17-241498 CO) that triggered nonconforming upgrade requirements per PCC 33.258.070. The date of this submittal is September 15, 2017. Therefore, the base zone in effect at the time was Storefront Commercial (CS), and the standards and provisions of this chapter are applicable.

#### 33.130.215 Setbacks

**B. Minimum building setbacks. The minimum building setback standards apply to all buildings and structures on site except as specific in this section. Setbacks for exterior developments are stated in 33.130.245 below, and for parking areas in Chapter 33.266.**

- 1. Generally. There is no required minimum building setback.**
- 2. Exceptions. [...]**

**Response:** Commercial zones do not have a minimum building setback requirement per PCC 33.130.215.B.1 and Table 130-3, and none of the exceptions listed are applicable to the OPB site. Further, the OPB site does not abut any residentially zoned land as identified in Figure 2, and the minimum building setbacks per Table 130-4 are not applicable. Applicable standards of PCC 33.266 are addressed for compliance in this narrative. Additionally, the OPB site is subject to special street setbacks for its frontage along South Macadam Avenue; compliance with PCC 33.288 is addressed in this narrative.

#### 33.130.225 Landscaped Areas

**B. Minimum landscaped area standard. The required amounts of landscaped areas are stated in Table 130-3. Sites developed with a house, attached house or duplex are exempt from this standard. Required landscaped areas must be at ground level and comply with at least the L1 standard as stated in Chapter 33.248, Landscaping and Screening. However, up to one-third of the required landscaped area may be improved for active or passive recreational use, or for use by pedestrians. Examples include walkways, play areas, plazas, picnic areas, and unenclosed**

**recreational facilities. Any required landscaping, such as for required setbacks or parking lots, applies towards the landscaped area standard.**

**Response:** Per Table 130-3, the CS zone does not have minimum landscape area requirements. Therefore, this standard does not apply.

### **33.130.227 Trees**

**Requirements for street trees and for on-site tree preservation, protection, and overall tree density are specific in Title 11. See Chapter 11.50, Trees in Development Situations.**

**Response:** No street trees will be removed or impacted along the site's frontage with South Macadam Avenue. Additionally, the CS zone is exempt from tree preservation standards (11.50.040) and tree density standards (11.50.050) in effect at the time of the original building permit submittal (September 15, 2017).

### **33.130.235 Screening**

**B. Garbage and recycling collection areas. All exterior garbage cans, garbage collection areas, and recycling collection areas must be screened from the street and any adjacent properties. Trash receptacles for pedestrian use are exempt. Screening must comply with at least the L3 or F2 standards of Chapter 33.248, Landscaping and Screening.**

**Response:** 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. Nevertheless, the proposed six foot sight-obscuring wood fence along the entirety of the site's eastern boundary meets the F2 standard as identified by Figure 248-2. This fence will further screen any remaining views of the garbage and recycling collection areas from the east and southeast, including from Willamette Park and single-family residential homes across the TriMet right-of-way to the southeast.

**C. Mechanical Equipment. Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators must be screened from the street and any abutting residential zones by walls, fences, or vegetation. Screening must comply with at least the L2 or F2 standards of Chapter 33.248, Landscaping and Screening, and be tall enough to screen the equipment. Mechanical equipment placed on roofs must be screened in one of the following ways, if the equipment is within 50 feet of an R zone: [...]**

**Response:** As identified on sheet L3.0 of the plan set, a six foot completely sight-obscuring wood fence is proposed on the north, south, and east sides of the satellite dish and generator area (ground-mounted mechanical equipment), which meets the F2 standard. On the west side of the satellite dish and generator area, additional landscaping meeting the L2 standard is proposed, which will adequately screen the area from view from South Macadam Avenue in conjunction with the existing stained wooden screen previously approved with LU 13-189448 DZ. To allow for the six foot completely sight-obscuring fence to be located within ten feet from the lot line adjacent to South Nevada Street, a modification is proposed to PCC 33.130.270.C.1.a. As previously described in this narrative, operational requirements of the satellite dish preclude the installation of landscaping meeting the L2 standard due to eventual interference with the operation of the satellite dish upon maturity of the trees. Further, the fence cannot be moved closer to the dish due to existing width limitations and the need for a clear path around the satellite dish for routine maintenance of the equipment.

Roof-mounted mechanical equipment on OPB's main office and broadcast studio facility, including five existing HVAC units, are already adequately screened with an existing mechanical screen that shields these features from views from the east (Willamette Park and single-family residential housing across the TriMet right-of-way), south (commercial uses), and adjacent rights-of-way to the north (South Nevada Street) and west (South Macadam Avenue).

Therefore, all roof-mounted and ground-mounted mechanical equipment within the OPB site is currently or proposed to be screened to the F2 or L2 standard as required by this standard.

**D. Other screening requirements. The screening requirements for parking, exterior storage, and exterior display areas are stated with the regulation for those types of development.**

**Response:** This narrative includes findings of compliance for the applicable parking lot and vehicle area screening requirements found in PCC 33.266. Exterior display and exterior storage areas do not exist within the OPB site; therefore, no additional screening is required on site.

### **33.130.270 Fences**

- A. Purpose. The fence regulations promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences near streets are kept low in order to allow visibility into and out of the site and to ensure visibility for motorists. Fences in any required side or rear setback are limited in height so as to not conflict with the purpose for the setback.**
- B. Types of fences. The standards apply to walls, fences, and screens of all types whether open, solid, wood, metal, wire, masonry, or other material.**
- C. Location and heights.**
  - 1. Fences abutting street lot lines and pedestrian connections. Within 10 feet of a street lot line or lot line that abuts a pedestrian connection, fences that meet the following standards are allowed:**
    - a. Fences that are more than 50 percent sight-obscuring may be up to 3-1/2 feet high.**
    - b. Fences that are 50 percent or less sight-obscuring may be up to 8 feet high.**

**Response:** As identified on sheet L3.0 of the plan set and previously described in this narrative, a six foot completely sight obscuring wood fence is proposed on the south side of the satellite dish and generator area adjacent to a street lot line (South Nevada Street) in order to meet screening requirements for ground-mounted mechanical equipment required by PCC 33.130.235.C. Due to the operational needs of the adjacent satellite dish, which typically faces due-south and southeast, L2 landscaping cannot be installed in-lieu of a sight-obscuring fence as it will interfere with the operation of the satellite dish upon maturity of any trees planted. Further, the fence cannot be moved closer to the dish due to existing width limitations and the need for a clear path around the satellite dish for routine maintenance. Therefore, the applicant is requesting approval of a modification to this standard for the six foot sight obscuring fence proposed along the South Nevada Street lot line adjacent to the satellite dish and generator area. Approval criteria for the proposed modification are addressed in response to PCC 33.825.055 in this narrative.

As previously described, an additional six foot wood fence is also proposed along the entirety of the site's eastern boundary. While this lot line abuts public right-of-way (TriMet), this right-of-way contains railroad tracks and does meet the City's definition for "street" per PCC 33.910, which is intended for motor vehicle, pedestrian or bicycle travel. Therefore, no modification is needed for its installation.

**2. Fences abutting other lot lines. Fences up to 8 feet high are allowed in required building setbacks along all other lot lines.**

**Response:** Because the applicant cannot comply with the three foot buffer requirement associated with condition of approval #3 of DZ 15-87, or the five foot setback landscaped to the L2 standard per Table 266-5 and PCC 33.266.130.G.2 along the site's eastern boundary, the applicant requests approval of a modification to this standard. In lieu of a five foot landscape strip meeting the L2 standard, the applicant proposes a sight-obscuring six foot wood fence along this boundary, a length of approximately 440 linear feet. A detail and image of the proposed fence is included on sheets L3.0 and L3.1 of the plan set, included as Exhibit G.

**D. Reference to other regulations. Electrified fences are regulated under Title 26, Electrical Regulations. The use of barbed wire is regulated under Title 24, Building Regulations.**

**Response:** An electric fence is not proposed. Therefore, Title 26 is not applicable.

### **33.130.285 Nonconforming Development**

**Existing development that does not conform to the development standards of this chapter may be subject to the regulations of Chapter 33.258, Nonconforming Situations.**

**Response:** Type III Design Review with three (3) Modifications and Greenway Review approvals are requested by the applicant in order to meet nonconforming development requirements triggered by a previous building permit submittal by the applicant in 2017 (17-241498 CO). As identified in the covenant, the applicant is only obligated to fulfill the standards in effect at the time of the original permit application's submittal. Any future nonconformities will be addressed if any subsequent building permit applications trigger compliance with PCC 33.258.

### **33.130.290 Parking and Loading**

**The standards pertaining to the minimum required and maximum allowed number of auto parking spaces, minimum required number of bicycle parking spaces, parking lot placement, parking lot setbacks, and landscaping are stated in Chapter 33.266, Parking and Loading.**

**Response:** Applicable standards of PCC 33.266 are addressed in this narrative.

### **33.248 Landscaping and Screening**

#### **33.248.020 Landscaping and Screening Standards**

**Subsections A. through H. state the different levels of landscaping and screening standards to be applied throughout the City. The locations where the landscaping or screening is required, and the depth of the landscaping or screening are stated in various places throughout the Code. All landscaping and screening required by this Title must comply with all of the provisions of this chapter, unless specifically superseded. [...]**

**Response:** As required by the executed covenant, upgrades to the site's interior parking lot landscaping, perimeter parking lot landscaping, and special street setback landscaping requirements along the site's front with South Macadam Avenue are required. Street trees along the site's frontage with South Macadam Avenue are not proposed for removal and will not be impacted by the applicant's proposed site alterations.

Plant materials and levels of landscaping and screening are provided in compliance with this chapter unless specifically superseded by the standards of PCC 33.266 as identified on sheets L3.0 and L3.1 of the plan set, included as Exhibit G.

### 33.248.040 Installation and Maintenance

- A. Installation. All required landscaping must be in-ground, except when in raised planters that are used to meet minimum Bureau of Environmental Services stormwater management requirements. Plant materials must be installed to current nursery industry standards. Plant materials must be properly supported to ensure survival. Support devices such as guy wires or stakes must not interfere with vehicular or pedestrian movement.**

**Response:** As identified on sheet L3.0 of the plan set, all proposed landscaping is to be in-ground as required and will be installed to the current version of the American Nurseryman's Specification Association standards.

- B. Maintenance. Maintenance of landscaped areas is the ongoing responsibility of the property owner. Required landscaping must be continuously maintained in a healthy manner. Plants that die must be replaced in kind. A fine may be levied if the landscaping has not been maintained, and new plants required to be planted.**

**Response:** The property owner will maintain landscaped areas as required.

- C. Irrigation. The intent of this standard is to ensure that plants will survive the critical establishment period when they are most vulnerable due to lack of watering. All landscaped areas must provide an irrigation system, as stated in option 1, 2, or 3.**

- 1. Option 1. A permanent built-in irrigation system with an automatic controller.**
- 2. Option 2. An irrigation system designed and certified by a licensed landscape architect as part of the landscape plan, which provides sufficient water to ensure that the plants will become established. The system does not have to be permanent if the plants chosen can survive adequately on their own once established.**
- 3. Option 3. Irrigation by hand. If the applicant chooses this option, an inspection will be required one year after final inspection to ensure that the landscaping has become established. An inspection fee, paid at the time of permit application, will be required.**

**Response:** A permanent built-in irrigation system with an automatic controller will be designed and installed by the contractor.

### 33.248.060 Landscape and Tree Plans

- A. Landscape plans. Landscape plans must be submitted showing all landscaped areas. Plans must be drawn to scale and show type, size, number, and placement of materials. Materials must be identified with both their scientific and common names. Any required irrigation system must also be shown**
- B. Tree plans. A tree plan may be required to comply with Chapter 11.50, Trees in Development Situations.**

- C. Tree protection. Where existing trees are used to meet the landscape standards or tree preservation requirements of this Title, tree protection meeting the requirements of Chapter 11.60, Technical Specifications must be shown on the landscape or tree plan.**

**Response:** Existing trees proposed for retention will be protected consistent with the provisions of PCC 11.60 as shown on sheet L2.5. of the plan set.

### **33.248.070 Completion of Landscaping**

**The installation of any required landscaping may be deferred during the summer or winter months to the next planting season, but never for more than 6 months. All required landscaping must be installed prior to final inspection.**

**Response:** All required landscaping will be installed prior to final inspection being requested.

### **33.248.090 Mitigation and Restoration Plantings**

**Plantings intended to mitigate for the loss of natural resource values are subject to the following requirements. Where these requirements conflict with other requirements of this chapter, these requirements take precedence.**

**Response:** Mitigation and restoration plantings are not proposed or required.

## **33.258 Nonconforming Situations**

### **33.258.070 Nonconforming Development**

- A. Purpose. This section is primarily aimed at upgrading nonconforming development elements that affect the appearance and impacts of a site. It is not intended to require extensive changes that would be extremely impractical such as moving or lowering buildings.**

**Response:** Type III Design Review with three (3) Modifications and Greenway Review approvals are requested by the applicant in order to meet nonconforming development requirements triggered by a previous building permit submittal by the applicant in 2017 (17-241498 CO). As identified in the covenant, the applicant is only obligated to fulfill the standards in effect at the time of the original permit application's submittal. Any future nonconformities will be addressed if any subsequent building permit applications trigger compliance with PCC 33.258.

## **33.266 Parking and Loading**

### **33.266.100 General Regulations**

- A. Where the regulations apply. The regulations of this chapter apply to all parking areas in all zones, whether required by this code or put in for the convenience of property owners or users. Parking areas include those accessory to a use, part of a Commercial Parking use, or for a park and ride facility in the Community Services use category.**

**Response:** Modifications to the site's existing parking areas, interior parking lot landscaping, and perimeter parking lot landscaping are proposed. Therefore, the standards and provisions of this chapter are applicable as they relate to the applicant's required nonconforming upgrades.

### **33.266.110 Minimum Required Parking Spaces**

- B. Minimum number of required parking spaces.**

1. **Minimum for sites located close to transit. For sites located 1500 feet or less from a transit station, or 500 feet or less from a transit street with 20-minute peak hour service the following minimum parking requirements apply. The Bureau of Transportation will publish a map annually, adopted through Administrative Rule, showing sites that meet these service thresholds. For sites not shown on the map, the applicant may provide current information demonstrating that the site meets the service thresholds:**
  - a. **Household living uses. The minimum number of required parking spaces for a site with a Household living use is:**
  - b. **All other uses. No parking is required for all other uses.**

**Response:** Per the PBOT Close to Transit Service map, the site is within the Close to Transit Service buffer, and the 20-minute peak hour service threshold is met. Additionally, no household living uses are present on site. There is no minimum required parking for OPB's use, which is general office use.

### **33.266.116 Maximum Allowed Parking Spaces**

- B. **Maximum number of parking spaces allowed. Regulations in a plan district or overlay zone may supersede the regulations in this subsection.**
  1. **Surface parking. Where more than 25 percent of the parking accessory to a use is on surface parking lots, both the structured and surface parking are regulated as follows. Parking accessory to a use includes accessory parking that is on- and off-site:**
    - a. **Generally. The maximum number of parking spaces allowed is stated in Tables 266-1 and 266-2, except as specified in Subparagraph B.1.b.;**

**Response:** The OPB site currently provides 38 structured parking spaces and 39 surface parking spaces, which brings the combined total parking spaces currently on site to 77. Because more than 25% of the site's parking area is a surface parking lot, based upon OPB's building (54,000 SF) which is characterized as a general office use, the maximum number of allowed parking spaces is 183 per Table 266-2. Therefore, the OPB site continues to remain below the maximum allowed parking spaces per Table 266-2.

Further, as shown on sheet L3.0 of the plan set, the applicant proposes to eliminate four (4) parallel surface parking spaces to allow for additional landscaping. Additionally, five (5) non-conforming head-in (90°) structured parking spaces will be re-striped as parallel spaces as identified by note 3 and 4 on sheet L3.0 of the plan set. Following this application, the site will provide 35 surface parking spaces (74 total parking spaces), which will continue to remain below the maximum allowed parking spaces per Table 266-2.

### **33.266.130 Development Standards for All Other Development**

- B. **Where these standards apply. The standards of this section apply to all vehicle areas whether required or excess parking, except for residential vehicle areas subject to the standards of 33.266.120.**

**Response:** Alterations to the site's existing parking areas, interior parking lot landscaping, and perimeter parking lot landscaping are proposed. Therefore, the standards and provisions of this section are applicable as they relate to the applicant's required nonconforming upgrades.

- C. **On-site locations and size of vehicle areas.**

1. **Location of vehicle areas. The allowed on-site location of all vehicle areas is stated in Table 266-3. Additionally, on sites in multi-dwelling zones that abut an alley and are 10,000 square feet or less in total site area, vehicle area may only be accessed from the alley.**

**Response:** The location of existing vehicle areas is not proposed to be altered with the applicant's proposal. As previously identified, four parallel spaces are proposed to be removed to facilitate additional interior parking lot landscaping as required by the covenant.

2. **Building setbacks for structures that contain vehicle areas.**
  - a. **Structures that contain vehicle areas are subject to the building setbacks of the base zone, where exiting in a forward motion is provided.**

**Response:** Buildings and structures within commercial zones do not have minimum setbacks as identified in response to PCC 33.13.215. Additional special street setback requirements for South Macadam Avenue per PCC 33.288 are addressed for compliance in this narrative.

- b. **Structured parking that does not allow exiting in a forward motion in R Zones is subject to the garage entrance setback standard of the base zone.**
  - c. **Structured parking that does not allow exiting in a forward motion in C, E, I, CI, or IR zones must be set back 18 feet from the street lot line.**

**Response:** Existing structured parking allows for exiting in a forward motion. Alterations to ingress and egress for the existing structured parking is not proposed.

3. **Frontage limitation.**
  - a. **The standard of this Subparagraph applies outside the Central City plan district in the R3, R2 and R1 zones. No more than 40 percent of the frontage on a street may be used for vehicle areas. On sites with more than one street frontage, this standard applies to the street with the highest transit designation. If two streets have the same highest transit classification, the applicant may choose on which street to meet the standard. Sites where there is less than 100 square feet of net building area are exempt from this standard.**

**Response:** The OPB site is not within any of the zones identified above. Therefore, this standard does not apply.

- b. **The standard of this Paragraph applies outside the Central City plan district in the RH, RX, IR, CN, CO, CG, CX, EG1, and EX zones. Where vehicle areas are adjacent to a transit street or a street in a Pedestrian District, no more than 50 percent of the frontage on the transit street or street in a Pedestrian District may be used for vehicle areas. Sites where there is less than 100 square feet of net building area are exempt from this standard.**

**Response:** The OPB site is located within the CS zone as identified in Figure 2. Therefore, this standard does not apply.

#### D. Improvements.

1. **Paving. In order to control dust and mud, all vehicle areas must be paved. However, some portions of individual parking spaces may be landscaped per the standards of Paragraph F.4, below.**

**Response:** All vehicle areas are currently paved and will continue to be paved following the site alterations.

- 2. Striping. All parking areas, except for stacked parking, must be striped in conformance with the parking dimension standards of Subsection F. below.**

**Response:** All parking areas will be striped in conformance with the parking dimension standards identified in Subsection F, as shown on sheet L3.0 of the plan set. Stacked parking is not proposed.

- 3. Protective curbs around landscaping. All perimeter and interior landscaped areas must have protective curbs along the edges. Curbs separating landscaped areas from parking areas may allow stormwater runoff to pass through them. Tire stops, bollards, or other protective barriers may be used at the front ends of parking spaces. Curbs may be perforated or have gaps or breaks. Trees must have adequate protection from car doors as well as car bumpers.**

**Response:** All perimeter and interior landscaped areas will include protective curbs as shown on sheet L3.0 of the plan set. Proposed tree plantings are spaced adequately to protect from car doors and bumpers.

- E. Stormwater management. Stormwater runoff from parking lots is regulated by the Bureau of Environmental Services. See Chapter 17.38, Drainage and Water Quality, and the City's Stormwater Management Manual, which contain requirements for managing stormwater in parking lot landscaping.**

**Response:** Modifications to the site's stormwater management facilities are not proposed or required with the applicant's proposal.

**F. Parking area layouts.**

- 1. Access to parking spaces.**

- a. All parking areas, except stacked parking areas, must be designed so that a vehicle may enter or exit without having to move another vehicle.**

**Response:** All parking areas will continue to allow for entering and exiting without having to move another vehicle. Stacked parking is not proposed.

- b. All parking areas must be designed to allow vehicles to enter and exit the roadway in a forward motion, except: [...]**

**Response:** All parking areas will continue to allow for vehicles to enter and exit the roadway in a forward motion.

- 2. Parking space and aisle dimensions. Parking spaces and aisles must meet the minimum dimensions contained in Table 266-4. For stacked parking areas, see Section 33.266.140 below.**

**Response:** All parking spaces and drive aisles will meet the minimum dimensions identified in Table 266-4, and as shown on sheet L3.0 of the plan set for width and depth. Interior aisles will continue to meet the minimum dimensions for two-way aisles (20-feet) and one-way aisles (12-feet), apart from a brief segment of the existing drive aisle that is currently 11.6-feet, as identified on sheet L3.0 of the plan set, due to the footprint of the existing building. No change to the existing segment of non-conforming driveway width (for this

limited section) is proposed. Widening of the existing drive aisle in this location is not possible due to the adjacent railroad right-of-way and the building’s footprint.

**3. Parking for disabled persons. The Bureau of Development Services regulates the following disabled person parking standards and access standards through the Oregon Structural Specialty Code.**

- **Dimensions of disabled person parking spaces and access aisles;**
- **The minimum number of disabled person parking spaces required;**
- **Location of disabled person parking spaces and circulation routes,**
- **Curb cuts and ramps including slope, width and location;**
- **Signage and pavement markings.**

**Response:** Parking and access standards for disabled persons are not altered with this proposal. The OPB site will continue to provide adequate ADA compliant parking spaces meeting the requirements identified above.

**G. Parking area setbacks and landscaping.**

**1. All landscaping must comply with the standards of Chapter 33.248, Landscaping and Screening. Trees and shrubs must be fully protected from potential damage by vehicles.**

**Response:** This narrative addresses compliance with PCC 33.248. Additionally, sheets L3.0 and L3.1 of the plan set demonstrate compliance with applicable landscaping and screening standards. Curbs are provided in order to fully protect trees and shrubs from potential damage by vehicles.

**2. Setbacks and perimeter landscaping.**

**c. Setbacks. The minimum required setbacks for surface parking areas are stated in Table 266-5. Protective curbs, tire stops, bollards or other protective barriers are not allowed within the minimum required setbacks.**

<b>Table 266-5 Minimum Parking Area Setbacks and Landscaping</b>		
<b>Location</b>	<b>All zones except EG2 and IG2</b>	<b>EG2, IG2</b>
<b>Lot line abutting street</b>	<b>5 ft. of L2</b>	<b>10 ft. of L2</b>
<b>Lot line abutting a C, E or I zone lot line</b>	<b>5 ft. of L2</b>	<b>5 ft. of L2</b>
<b>Lot line abutting a OS or R, zone lot line</b>	<b>5 ft. of L3</b>	<b>10 ft. of L3</b>

**Response:** The OPB site abuts C zones all on sides<sup>4</sup>, as shown on Figure 2 in this narrative. Therefore, five feet of screening at the L2 standard is required.

<sup>4</sup> The centerline of the railroad tracks is the dividing line between OS and CS/CM2 zoning per detailed zoning maps. Therefore, the site does not abut the OS zone. Further, pursuant to the definition of “street” in PCC 33.910, the rail

- d. **Perimeter landscaping. The minimum setbacks and landscaping standards required are provided in Table 266-5.**
- (1) **Surface parking abutting streets, and C, E, I, and CI zones. Where a surface parking area abuts a street lot line, or a C, E, I, or CI zone lot line, only the minimum required setbacks must be landscaped. The landscaping must meet the L2 standard of Chapter 33.248, and must be adjacent to the parking area and driveway. Where a setback is provided that is greater than the required minimum, the landscaping must be placed within 25 feet of the edge of the parking area and driveway. To provide connectivity between sites, a single driveway up to 20 feet wide may interrupt the landscaping that abuts a C, E, or I zone lot line.**

**Response:** As shown on sheet L3.0 of the plan set, the five 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. Recent surveys of the site reveal that the building is located closer to the site's eastern boundary than indicated in the design plan set submitted and approved under DZ 15-87. The resulting condition on the east side of the building leaves limited area to allow sufficient vehicular, loading and emergency access, while at the same time providing a three foot landscape buffer required by Condition #3 of DZ 15-87 and the overlapping five foot landscape buffer required by PCC 33.266.130.G.2.

Therefore, the applicant requests approval of a modification to this standard for the site's eastern edge. In lieu of a five foot landscaped buffer, the applicant proposes a sight-obscuring six foot wood fence along this boundary, a distance of approximately 440 linear feet. A detail and image of the proposed fence is included on sheet L3.0 and L3.1 of the plan set. Approval criteria for the proposed modification are addressed in response to PCC 33.825.055 in this narrative.

- (2) **Surface parking abutting OS, R, and IR zones. Where a surface parking area abuts an OS, R, or IR zone lot line, only the minimum required setbacks must be landscaped. The landscaping must meet the L3 standard of Chapter 33.248, and must be adjacent to the parking area and driveway. Where a setback is provided that is greater than the required minimum, the landscaping must be placed within 25 feet of the edge of the parking area and driveway.**

**Response:** None of the surface parking areas abut OS, R or IR zones.

3. **Interior landscaping. The regulations of this paragraph apply to all surface parking areas except stacked parking areas. For stacked parking areas, see Section 33.266.140 below.**
- a. **Amount of interior landscaping required. In all zones, interior landscaping must be provided for sites where there are more than 10 parking spaces on the entire site. At least 45 square feet of interior landscaped area must be provided for each parking space.**

**Response:** Thirty-five (35) surface parking spaces are provided on site after the proposed removal of four parallel parking spaces. Therefore, 1,575 square-feet of interior parking lot landscaping is required. As shown on sheet L3.0 of the plan set, 1,622 square-feet of interior landscaping is provided, which exceeds the minimum required.

- b. **The landscape materials must comply with the P1 standard of Chapter 33.248.**

**Response:** As shown on sheet L3.0 of the plan set, interior landscaped areas comply with the P1 standard.

- c. **The landscaping must be dispersed throughout the parking area. All of the required landscape area may be in the parking area, or some may be in the loading area.**

**Response:** As shown on sheet L3.0 of the plan set, proposed landscaping is dispersed throughout the parking areas.

- d. **Perimeter landscaping may not substitute for interior landscaping. However, interior landscaping may join perimeter landscaping as long as it extends at least four feet into the parking area from the perimeter landscape line.**

**Response:** The applicant is not proposing to substitute perimeter landscaping for interior landscaping as shown on sheet L3.0 of the plan set. The extent of perimeter landscaping, and the beginning of interior landscaping, is clearly demarcated on sheet L3.0 of the plan set.

- e. **Exception for existing parking lots. Where compliance with Subparagraph G.3.a, above, would result in the loss of existing required parking spaces, the amount of parking required is reduced by the amount needed to accommodate the minimum landscaping required.**

**Response:** Four surface parallel parking spaces are proposed to be removed so that additional interior parking lot landscaping can be provided. As identified in response to PCC 33.266.110, the site is not subject to minimum parking space requirements. Therefore, this exception does not apply.

- f. **Layout of interior landscaped areas. The layout of the interior landscaped areas must meet either one or a combination of the standards of this subparagraph:**

**(1) Option 1: Landscape strips. See Figure 266-5.**

- Interior landscaping must be arranged in landscape strips at least four feet wide between rows of parking stalls.
- Where the front portions of parking stalls are landscaped as allowed by Paragraph F.4, the landscaped portion of the parking stall must be adjacent to the four-foot landscape strip.

**(2) Option 2: Other landscape patterns. See Figure 266-6.**

- Interior landscaping must be arranged in areas at the ends of rows of parking or between parking spaces within rows of parking.
- Interior landscaping may join perimeter landscaping as long as the interior landscape area extends at least 4 feet into the parking area from the perimeter landscape line.
- Landscaping that abuts, but does not extend into, the parking area may be included as interior landscaping if all of the following are met:
  - The abutting landscaped area must be in addition to required perimeter landscaping;
  - Only the first 10 feet of the abutting landscaped area, measured from the edge of the parking area, may be included as interior landscaping; and

- **The landscaped area is not abutting and parallel to required perimeter landscaping.**

**Response:** Proposed interior landscaping is arranged per Option 2 above. Interior landscaped areas are provided at the ends of rows of parking or immediately adjacent and within ten feet and joins perimeter landscaping no less than four feet from the parking areas as shown on sheet L3.0 of the plan set. 1,622 square-feet of interior landscaping is provided, which exceeds the minimum required for 35 surface parking spaces (1,575 SF).

### **33.266.150 Vehicles in Residential Zones**

- B. Where these regulations apply. These regulations apply to all residential uses in all R zones.**

**Response:** The OPB site is not within a residential zone. Therefore, these regulations are not applicable.

### **33.266.310 Loading Standards**

- B. Where these regulations apply. The regulations of this section apply to all required and non-required loading areas.**

**Response:** The site's existing loading area on the eastern side of the building is maintained. No alterations to this existing loading area are proposed. This loading area is identified on sheets L2.0 and L3.0 of the plan set.

- C. Number of loading spaces.**

- 2. Buildings where any of the floor area is in uses other than Household Living must meet the standards of this paragraph.**

- c. Two loading spaces meeting Standard A are required for buildings with more than 50,000 square feet of net building area in uses other than Household Living.**

**Response:** The main OPB facility is an approximately 54,000 square-foot office and broadcast studio building. Therefore, two loading spaces meeting Standard A are required. Two loading spaces that meet the dimensions of Standard A are currently provided on the east side of the main OPB facility.

- D. Size of loading spaces.**

- a. Standard A: the loading space must be at least 35 feet long, 10 feet wide, and have a clearance of 13 feet.**

**Response:** Two loading spaces that meet the dimensions of Standard A as identified above are currently provided on the east side of the main OPB facility.

- E. Placement, setbacks and landscaping. Loading areas must comply with the setback and perimeter landscaping standards stated in Table 266-7 below. When parking areas are prohibited or not allowed between a building and a street, loading areas are also prohibited or not allowed.**

Table 266-7 Minimum Loading Area Setbacks and Permitter Landscaping		
Location	All zones except EG2 and IG2	EG2, IG2
Lot line abutting a street	5 ft. / L2 or 10 ft. / L1	10 ft. / L2 or 15 ft. / L1
Lot line abutting a C, E, or I zone lot line	5 ft. / L2 or 10 ft. / L1	5 ft. / L2 or 10 ft. / L1
Lot line abutting an OS zone lot line	5 ft. / L3	10 ft. / L3
Lot line abutting an R zone lot line	5 ft. / L4	10 ft. / L4

**Response:** The OPB site’s two required loading spaces are currently provided along the site’s eastern boundary, which abuts commercially zoned property as identified on Figure 2. Therefore, these loading areas require a five foot landscape strip meeting the L2 standard, or a ten foot landscape strip meeting the L1 standard per Table 266-7. As previously described, PCC 33.266.130.G.2 and Table 266-5 also require a five foot landscape strip meeting the L2 standard along the entirety of the site’s eastern boundary (which overlaps the loading area setback), which cannot be provided due to existing site conditions and space limitations in this area, for which the applicant is requesting a modification. As with PCC 33.266.130.G.2, the applicant is requesting a modification to this standard, and proposes a sight-obscuring six foot wood fence in this area in lieu of the required landscape strip. Approval criteria for the proposed modification are addressed in response to PCC 33.825.055 in this narrative.

**F. Forward motion.**

- 1. Outside the Central City plan district. Outside the Central City plan district, loading facilities generally must be designed so that vehicles enter and exit the site in a forward motion. Standard B loading spaces that are accessed from a Local Service Traffic Street are exempt from this requirement.**

**Response:** Both loading spaces provided within the OPB site allow vehicles to enter and exit in a forward motion.

**G. Paving. In order to control dust and mud, all loading areas must be paved.**

**Response:** Both loading spaces provided within the OPB site are currently paved, as identified on sheets L2.0 and L3.0 of the plan set.

**33.288 Special Street Setbacks**

**33.288.020 Requirements**

- A. Where the regulations apply. Special street setbacks apply to all buildings, structures, signs, off-street parking areas, and exterior display, storage, and activities fronting a street with special setback designation on the Official Zoning Maps.**

**Response:** Per the City’s official zoning maps, South Macadam Avenue is subject to special street setback standards. As the OPB site partially fronts on South Macadam Avenue, the standards of this chapter are applicable.

**B. Projections into setback. Projections of up to 3 feet are allowed by right into the special street setbacks. Projections include items such as signs faces, eaves, overhangs, and building cornices.**

**Response:** As shown on sheet L2.0 of the plan set, the existing OPB building projects into the special street setback in four (4) locations. None of these projections are greater than three feet in length. No additional projections into the setback are proposed with this application.

**C. Landscaping. Where landscaping is allowed or required, special street setbacks must be landscaped to at least the L1 standard, as stated in Chapter 33.248, Landscaping and Screening.**

**Response:** As shown on sheet L3.0 of the plan set, the special street setback is landscaped to at least the L1 standard. Certain areas, as required by PCC 33.266.130.G, are landscaped to the L2 standard to meet perimeter parking lot landscaping requirements.

**D. Base zone requirements. The base zone requirements apply in all areas with special street setbacks. In the event that the requirements of this chapter and the base zone differ, the more restrictive applies.**

**Response:** Commercial zones do not have a minimum building setback. Therefore, the special street setback standard is more restrictive. A five foot setback landscaped to the L1 standard is shown on sheet L3.0 of the plan set along the building's frontage with South Macadam Avenue.

### **33.415 Centers Main Street Overlay Zone**

**Response:** This application is vested to the zoning in effect at the time of the original building permit submittal (17-241498 CO) that triggered nonconforming upgrade requirements per PCC 33.258.070. The date of this submittal is September 15, 2017. The Centers Main Street overlay zone was not established at this time. Therefore, the standards of this chapter is not applicable to this application.

### **33.420 Design Overlay Zone**

#### **33.420.025 Where These Regulations Apply**

The regulations of this chapter apply to all design overlay zones. Design review may also be a requirement of a plan district, other overlay zone, or as a condition of approval of a quasi-judicial decision.

**Response:** The OPB site is within the design overlay zone, as shown on Figure 2 in this narrative. Additionally, a Type III Design Review is requested to remove a condition of approval (#3) from the OPB site's original design review approval, DZ 15-87. Therefore, the standards of this chapter are applicable.

#### **33.420.030 Neighborhood Contact**

Neighborhood contact is a set of outreach steps that must be taken before certain developments can be submitted for approval. Neighborhood contact is required as follows:

- A. When the proposed development will add at least 10,000 square feet of net building area to a site, the neighborhood contact step of 33.705.020.C., Neighborhood contact III, are required.**

- B. If the proposed development has already met the neighborhood contact requirements as part of a land use review process, it is exempt from the neighborhood contact requirements.**

**Response:** An addition of at least 10,000 square feet of net building area is not proposed. Therefore, the standards of this section, and neighborhood contact III, are not applicable.

### **33.420.041 When Design Review is Required**

Unless exempted by Section 33.420.045, Exempt From Design Review, design review is required for the following:

- A. New development;
- B. Exterior alterations to existing development, including changes to exterior color when the existing color was specifically required by a design review approval;
- C. Nonstandard improvements in the public right-of-way such as street lights, street furniture, planters, public art, sidewalk and street paving materials, and landscaping. Nonstandard improvements in the public right-of-way must receive prior approval from the City Engineer prior to applying for design review. Improvements that meet the City Engineer's standards are exempt from design review;
- D. Items identified in the Citywide Policy on Encroachments in the Public Right-of-Way or Title 17, Public Improvements, as requiring design review;
- E. Removal of trees in the South Auditorium plan district;
- F. Exterior signs larger than 32 square feet, except in the South Auditorium Plan district, where all signs are subject to design review;
- G. Where City Council requires design review of a proposal because it is considered to have major design significance to the City. In these instances, the City Council will provide design guidelines by which the proposal will be reviewed, and specify the review procedure;
- H. Proposals using one of the provisions of the a, Alternative Design Density Overlay Zone, specified in Sections 33.405.040 through .080;
- I. Floating structures, except individual houseboats; and
- J. In the Marquam Hill plan district, proposals to develop or improve formal open area required by Chapter 33.555. This includes designating existing open areas as formal open areas.

**Response:** Exterior alterations to existing development is proposed, including changes to the on-site landscaping and parking areas. Additionally, the applicant is requesting removal of a condition of approval (#3) from the OPB site's original design review approval, DZ 15-87. Therefore, a Type III Design Review is required. The applicant has addressed design review compliance, including the standards of PCC 33.825, in this narrative.

### **33.420.045 Exempt From Design Review**

The following items are exempt from design review: [...]

**Response:** As identified in response to PCC 33.420.041, a Type III Design Review is required. Therefore, the project is not exempt from design review.

### **33.420.051 Design Guidelines**

Guidelines specific to a design district have been adopted for the areas shown on maps 420-1 through 420-3 and 420-5 through 420-6 at the end of this chapter. All other areas within the Design Overlay Zone use the Community Design Guidelines.

**Response:** The OPB site is within the Macadam Plan District per map 420-2. The applicant has addressed compliance with the Macadam Corridor Design Guidelines in Section 6.0 of this narrative. Therefore, the Community Design Guidelines are not applicable.

### **33.420.055 When Community Design Standards May Be Used**

The Community Design Standards provide an alternative process to design review for some proposals. For some proposals, the applicant may choose to go through the design review process set out in Chapter 33.825, Design Review, or to meet the objective standards of Chapter 33.218, Community Design Standards. The standards for signs are stated in Title 32, Signs and related Regulations. Proposals that do not meet the Community Design Standards — or where the applicant prefers more flexibility — must go through the design review process.

Unless excluded by 33.420.060, When Community Design Standards May Not Be Used, proposals that are within the maximum limits of Table 420-1 may use the Community Design Standards as an alternative to design review.

**Response:** The OPB site contains no residential uses and is within the Macadam Plan District per map 420-2. Therefore, the Community Design Standards are not applicable.

### **33.420.060 When Community Design Standards May Not Be Used**

The Community Design Standards may not be used as an alternative to design review as follows:

- C. For proposals that do not include any residential uses in the following Design Overlay Zones:
  1. The portion of the South Auditorium plan district outside the Central City plan district. See Map 420-1;
  2. The Macadam design district. See Map 420-2; and
  3. The Terwilliger design district. See Map 420-3; and
  4. The Marquam Hill design district. See Map 420-5;

**Response:** The OPB site contains no residential uses and is within the Macadam Plan District per map 420-2. Therefore, the Community Design Standards are not applicable. The Macadam Plan District guidelines are addressed for compliance in Section 6.0 of this narrative.

## **33.440 Greenway Overlay Zones**

### **33.440.030 Greenway Overlay Zones**

- B. Where these regulations apply. The regulations of this chapter apply to all land and fills and structures in water within the Willamette Greenway Plan boundary designated on the Official Zoning Maps with River Natural, River Recreational, River General, River Industrial, or River Water Quality overlay zones except that the area within the interior of Ross and Hardtack Islands which is presently subject to the Ross Island Management Plan will not be subject to the regulations of this chapter during such time as the Ross Island Management Plan remains in effect. In addition, the public trail standards of Section 33.440.240 below apply to all lands designated on the Willamette Greenway Plan with the recreational trail symbol but which are outside of the greenway zones. However, the regulations of this chapter do not apply within the South Waterfront subdistrict of the Central City plan district. Sites in the South Waterfront

**subdistrict are instead subject to Section 33.510.253, Greenway Overlay Zone in South Waterfront Subdistrict.**

**Response:** The OPB site is within the River General overlay zone per the City's official zoning maps. Therefore, the standards of this chapter are applicable.

### **33.440.100 Use Related Restrictions**

- A. Generally. In most cases, the greenway zones do not restrict primary uses that are allowed in the base zone by right, with limitations, or as a conditional use. Exceptions to this are in the River Recreational, River Industrial, and River Water Quality zones. The restrictions on uses are stated in Subsection B. below. The location of development for an allowed use is regulated by the development standards below. Any changes to the land associated with the uses are subject to greenway review unless exempted. See 33.440.310 and 33.440.320 below.**

**Response:** Changes to the OPB site's uses are not proposed with this application. Additionally, the site is not within the River Recreational, River Industrial, or River Water Quality overlay zones.

### **33.440.200 Application of the Development Standards**

**Any changes to land or development within the greenway zones, including rights-of-way, are subject to the development standards of this chapter.**

**Response:** Alterations to the OPB site's landscaping and parking areas are proposed. Therefore, the development standards of this chapter are applicable.

### **33.440.210 Development in the Greenway Setback**

**C. Development regulations.**

- 1. Development landward of the greenway setback. Development, exterior alterations, excavations, and fills landward of the greenway setback are not required to be river-dependent or river-related and are subject to greenway review, unless exempt under Section 33.440.320, Exemptions.**

**Response:** The OPB Site is landward of the greenway setback. As identified in response to PCC 33.440.320, the applicant's proposal is not exempt from greenway review as exterior alterations to the OPB site are proposed, including modifications to landscaping and parking areas.

- 2. Development within the greenway setback. Development, exterior alterations, excavations, fills, and associated tree removal within the greenway setback that are river-dependent or river-related may be allowed if approved through greenway review, unless exempt under Section 33.440.320, Exemptions. Development, exterior alterations, excavations, or fills that are not river-dependent or river-related required greenway review and a Greenway Goal Exception to locate in the greenway setback.**

**Response:** The OPB site is not within the greenway setback per Figure 440-1.

- 3. Development riverward of the greenway setback. Development, exterior alterations, excavations, fills, and associated tree removal riverward of the greenway setback that are river-dependent or river related may be allowed if approved through greenway review, unless exempt under Section 33.440.320, Exemptions. Development, exterior alterations,**

**excavations, or fills that are not river-dependent or river-related required greenway review and a Greenway Goal Exception to locate riverward of the greenway setback.**

**Response:** The OPB site is not riverward of the greenway setback per Figure 440-1.

### **33.440.230 Landscaping**

- A. Required landscaping. Landscaping must be provided to conserve or re-establish vegetative cover within or riverward of the greenway setback. The landscaping must comply with the standards specified below. This is in addition to any landscape requirements of other chapters of this Title. The greenway landscape requirements may be included in any overall percentage-of-site landscape requirements of the base zone. Landscaping is not required where it would significantly interfere with a river-dependent or river-related use or development, or where the Fire Marshal finds that it would pose a safety hazard.**

**Response:** The OPB site is not within the greenway setback, or riverward of the greenway setback. Therefore, these standards are not applicable.

### **33.440.260 View Corridors**

- B. Provisions of corridors. All view corridors identified in the Willamette Greenway Plan must meet the view corridor design guidelines contained in the Willamette Greenway Plan.**

**Response:** The Willamette Greenway Plan Design Guidelines, including Issue H (view corridors), are addressed for compliance in Section 5.0 of this narrative.

### **33.440.270 Nonconforming Uses and Development**

**Nonconforming uses and development in the greenway zones are subject to the regulations and reviews of Chapter 33.258, Nonconforming Situations. The additional regulations stated below apply to development within or riverward of the greenway setback that is not river-dependent or river-related.**

- A. The development may continue.**
- B. The development may be changed to an allowed river-dependent or river-related development by right.**
- C. The development may be changed to another nonconforming development if within a building. If it is outdoors, it may not be changed to another nonconforming development.**
- D. The development may be expanded, but not within or riverward of the greenway.**

**Response:** PCC 33.258 is addressed in this narrative. The site is not within or riverward of the greenway setback. Therefore, the additional regulations identified above are not applicable.

### **33.440.310 When Greenway Review Applies**

**Unless exempted in 33.440.320 below, the following items are subject to greenway review:**

- A. New development;**
- B. Exterior alterations to development, including the removal of trees and shrubs and application of herbicides;**
- C. A change of use or development within or riverward of the greenway setback, where the use or development is no longer river-dependent or river-related;**

- D. Changes to the land and structures in the water, including excavations and fills, bridges, and docks;
- E. The dedication or extension of rights of way and any new development or improvements in rights of way when within the River Natural zone or riverward of the greenway setback;
- F. Non river-dependent or river-related primary uses in the River Industrial Zone; and
- G. Non river-dependent or river related primary uses in the River Water Quality Zone.

**Response:** Exterior alterations to the OPB site are proposed, including modifications to the site's landscaping and parking areas. Therefore, Greenway Review is required, and the site is not exempt per PCC 33.440.320 as identified below.

### 33.440.320 Exemptions from Greenway Review

Greenway review is not required for any of the situations listed below. The situations listed below are still subject to the Greenway development standards. When no development is proposed, removal of trees allowed under the exemptions below are subject to the tree permit requirements of Title 11, Trees. Exempt situations are:

- A. As illustrated in Figure 440-3, alterations to development in the River Industrial zone that are outside of the areas listed below:
  - 1. The greenway setback;
  - 2. Riverward of the greenway setback;
  - 3. Within 50 feet landward of the greenway setback; or
  - 4. Within 50 feet of River Natural zoned land;
- B. Alterations to development landward of the greenway setback when not in or within 50 feet of River Natural zoned land, that either do not require a building permit or are valued at less than \$25,000;
- C. Changes to the interior of a building where there are no exterior alterations;
- D. Development of or changes to the greenway trail or access paths provided that all development standards including the standards of Chapter 33.272, Public Recreational Trails, are met. Development of or changes in a viewpoint or view corridor, as indicated on Map 440-1, will require greenway review;
- E. Activities allowed by the base zone which are usual and necessary for the use and enjoyment of an existing house, including the modification of existing accessory structures or facilities, and the construction of driveways;
- F. Excavations and fills under 50 cubic yards;
- G. The normal maintenance and repair necessary for an existing development;
- H. Dredging, channel maintenance, and the removal of gravel from rivers;
- I. Emergency procedures necessary for the safety or protection of property. In the River Water Quality overlay zone setback, temporary emergency procedures for the safety or protection of property that result in permanent measures must meet the regulations of this chapter after the emergency has passed;
- J. The placement of up to 4 single piles, or 2 multiple-pile dolphins for each 100 feet of shoreline for an existing river-dependent or river-related use;
- K. Signs;

- L. Removal of vegetation on the Nuisance Plants List; and**
- M. Removal of trees not located within or riverward of the greenway setback or within the boundaries of the n and q overlays. However, trees removed using this exemption continue to be subject to other applicable regulations of this title and Title 11, Trees.**

**Response:** Per the above list, the applicant's proposal is not exempt from Greenway Review as exterior alterations to the OPB site are proposed that will require building permit(s). Therefore, Greenway Review is required.

### **33.440.330 Procedures**

All development that does not require a Greenway Goal Exception is processed through the Type II procedure. All development that requires a Greenway Goal Exception is processed through a Type III procedure, and must be approved by City Council. See Section 33.440.360, Greenway Goal Exception and Chapter 33.850, Statewide Planning Goal Exceptions.

**Response:** A Greenway Goal Exception is not required or requested. Therefore, PCC 33.440.360 and PCC 33.850 are not applicable.

### **33.440.345 Supplemental Application Requirements**

In addition to the application requirements of Section 33.730.060, Application Requirements, the information below is required for Greenway review applications.

- A. Supplemental Site Plans. One copy of each plan must be at a scale of at least on inch to 100 feet.**
  - 1. An existing conditions site plan, showing the following:**
    - a. Topography shown by contour lines at two foot vertical contours in areas of slope less than 10 percent and at five foot vertical contours in areas of slope ten percent or greater;**
    - b. The top of bank and the setback area;**
    - c. Distribution outline of shrubs and ground covers with a list of most abundance species;**
    - d. Trees identified by species, including the location of the drip line;**
    - e. Streams, wetlands, other water bodies, and drainage patterns, using arrows to indicate the direction of major drainage flow;**
    - f. Existing improvements such as structures, buildings, utility lines, fences, paved areas, roads, culverts, and bridges;**
    - g. Areas of known soil or groundwater contamination, areas of uncontained hazardous materials, and underground storage tanks; and**
    - h. Stormwater management facilities.**

**Response:** An existing conditions plan is included as sheet L2.0 of the plan set. Additionally, a separate existing conditions survey of the OPB site is included as Exhibit F.

- 2. A development proposal site plan including:**
  - a. A grading plan showing proposed alteration of the ground at two foot vertical contours in areas of slopes less than 10 percent and at five foot vertical contours in areas of slopes ten percent or greater;**
  - b. Proposed improvements such as structures, buildings, utility lines, fences, paved areas, roads, culverts, bridges; stormwater facilities and**

- c. **Areas where existing topography and vegetation will be left undisturbed.**

**Response:** Proposed development and site alterations are identified on sheet L3.0 of the plan set.

**3. A construction management site plan including:**

- a. **Areas that will be disturbed, including equipment maneuvering areas;**
- b. **Location of site access and egress;**
- c. **Equipment and material staging and stockpile areas;**
- d. **Erosion control measures; and**
- e. **Tree protection measures for trees to be preserved that meet the requirements of Title 11, Chapter 11.60, Technical specifications.**

**Response:** A construction management plan is included as sheet L2.5 of the plan set and includes all of the details identified above.

**33.440.350 Approval Criteria**

The approval criteria for a greenway review have been divided by location or situation. The divisions are not exclusive; a proposal must comply with all of the approval criteria that apply to the site. A greenway review application will be approved if the review body finds that the applicant has shown that all of the approval criteria area met.

- A. **For all greenway reviews. The Willamette Greenway design guidelines must be met for all greenway reviews.**

**Response:** The Willamette Greenway Design Guidelines are addressed for compliance in Section 5.0 of this narrative. As demonstrated, the applicant's proposal meets the applicable policy goals and objectives of the Willamette Greenway Plan.

- B. **River frontage lots in the River Industrial zone. [...]**

**Response:** The OPB site is not within the River Industrial zone. Therefore, these standards are not applicable.

- C. **Development within the River Natural zone. [...]**

**Response:** The OPB site is not within the River Natural zone. Therefore, these standards are not applicable.

- D. **Development on land within 50 feet of the River Natural zone. [...]**

**Response:** The OPB site is not on land within 50-feet of the River Natural zone. Therefore, these standards are not applicable.

- E. **Development within the greenway setback. [...]**

**Response:** The OPB site is not within the greenway setback per Figure 440-1. Therefore, these standards are not applicable.

- F. **Development riverward of the greenway setback. [...]**

**Response:** The OPB site is not riverward of the greenway setback per Figure 440-1. Therefore, these standards are not applicable.

**G. Development within the River Water Quality overlay zone setback. [...]**

**Response:** The OPB site is not within the River Water Quality zone. Therefore, these standards are not applicable.

**H. Mitigation or remediation plans [...]**

**Response:** A mitigation or remediation plan is not required. Therefore, these standards are not applicable.

**33.440.360 Greenway Goal Exception**

**A. When a greenway goal exception is required. Approval of an exception to Statewide Planning Goal 15 – Willamette Greenway, is required to locate a development of right-of-way that is not river-dependent or river-related within or riverward of the greenway setback. A greenway goal exception is not required to add revetments to a riverbank.**

**Response:** A Greenway Goal Exception is not required or requested. Therefore, the standards of this section are not applicable.

**33.550 Macadam Plan District**

**33.550.250 View Corridors**

**A. Ground level view corridors must be maintained along the rights-of-way of SW Miles, SW Nevada, SW California, SW Vermont, SW Nebraska, SW Pendleton, and SW Richardson Streets. These view corridors must be preserved by maintaining open space from SW Macadam Ave to the ordinary high water line of the Willamette river and are measured 30 feet from each side of the center line of these streets. Houses within the SW Miles Street view corridor are exempt from these regulations. A 60-foot wide view corridor at ground level must also be maintained at SW Carolina Street. This view corridor is directed northeasterly beginning at the intersection of SW Macadam Ave and SW Carolina Street and extending so that the extension of the northern edge of the view corridor meets the intersection of the mean low water line and the north property line of River Lot 6, Southern Portland Addition.**

**Response:** Changes to the view corridor along the South Nevada Street right-of-way are not proposed. As shown on sheet L3.0 of the plan set, high-quality, durable plantings are proposed along the perimeter of the parking areas, which serves to screen and soften the edges of the vehicle area and preserve view corridor along South Nevada Street.

**33.55.260 Exterior Display and Storage**

**Exterior display and storage, except of boats, is not allowed.**

**Response:** Exterior display and storage is not proposed or required by the applicant's proposal.

**33.550.280 Signs**

**The sign standards are stated in Title 32, Signs and Related Regulations**

**Response:** Alterations to the site's existing monument sign are not proposed by the applicant. Therefore, Title 32 standards are not applicable.

### **33.550.290 Required Design Review**

**The regulations of Chapter 33.420, Design Overlay Zones apply in all areas of the plan district are within the Design Overlay Zone**

**Response:** The OPB site is within the Design overlay zone. PCC 33.420 is addressed for compliance in this narrative. As a Type III Design Review is requested, PCC 33.825 is also addressed for compliance in this narrative.

### **33.730 Quasi-Judicial Procedures**

#### **33.730.140 Requests for Changes to Conditions of Approval**

- A. Generally. Request for changes to conditions of approval are processed using the current procedure assigned to the land use review and the current approval criteria for the original land use review, unless this Title specifies another procedure or set of approval criteria. See also Section 33.700.110, Prior Conditions of Land Use Approvals.**

**Response:** The applicant requests to remove condition of approval #3 from the 1987 design review approval (DZ 15-87). This condition requires an approximately three foot landscape strip along the eastern boundary of the site, as previously described. Therefore, a Type III Design Review Approval is requested.

### **33.825 Design Review**

#### **33.825.040 Modifications That Will Better Meet Design Review Requirements**

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the design review process. The review body may not consider modifications to standards for which adjustments are prohibited. Modifications are done as part of design review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through design review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

- A. Better meets design guidelines. The resulting development will better meet the applicable design guidelines; and**

#### ***Modification #1: PCC 33.266.130.G.2 (parking area setbacks and perimeter landscaping)***

**Response:** As previously identified, existing built conditions on the site preclude the ability to provide a three foot or five foot buffer on the site's eastern edge. The width of the drive aisle cannot be further reduced due to PCC 33.266.130.F.2, which requires a minimum 20-foot width for two-way drive aisles and 12-foot width for one-way drive aisles. Additionally, the drive aisle cannot be eliminated due to the need for vehicular access, including loading and emergency vehicles to safely maneuver around the eastern edge of the building. Therefore, a modification to PCC 33.266.130.G.2 is requested.

The proposed fence will screen immediate views of the drive aisle from the TriMet railroad right-of-way to the east, with additional landscaping plantings proposed on the east side of the parking structure where four parallel parking spaces currently exist. The right-of-way is currently only used for a seasonal trolley line, the Willamette Shore Trolley, which provides two to three departures per day between Lake Oswego and Portland and generally operates between June and October. Immediately east of the right-of-way is

Willamette Park, a 26-acre park owned and managed by the City of Portland. On the eastern edge of the railroad right-of-way and within the park is a row of mature Pin Oak trees with intermittent coniferous trees that provide substantial screening of the OPB building and eastern circulation area. Aerial photos of the park that are available from 1990 show that these trees were in existence at the time, but that the canopies had not matured to overlap and provide a continuous screening. These trees have matured over time and their canopies overlap to substantially screen the OPB structure. The proposed sight-obscuring fence will provide additional screening to supplement the vegetative screening provided from the trees at Willamette Park. In combination, the total screening provided will offer significant visual buffering that will equally or better meet the buffer provisions of Table 266-5 of PCC 33.266.130.G.2.

As identified in response to PCC 33.420.051, the site is within the Macadam Plan District, and subject to the Macadam Corridor Design Guidelines. The Macadam Corridor Design Guidelines are addressed in Section 6.0 of this narrative. In addition, the applicant has provided a summary statement in response to each of the six guidelines to further demonstrate how the proposal better meets these design guidelines.

- ***Visual Connections. Create public views to the river, Greenway Trail and Willamette Park from Macadam Avenue and other public parks and rights-of-way of Macadam as well as views from the river and the Greenway to the west;***

The proposed fence will screen and shield the railroad tracks from the public's view when utilizing the building's main entrance, which is elevated above street level. This will have the effect of framing and enhancing the pedestrian viewpoint toward Willamette Park and the Willamette River, as well as the existing row of Pin Oaks and other coniferous trees on the east side of the railroad tracks.

- ***Physical Connections. Create a common sense of unity that ties both sides of Macadam together with each other, the river to the east and the residential area to the west. Create public walkways that physically connect the Macadam Avenue right-of-way with Willamette Park, the Greenway Trail and the Willamette River;***

The proposed fence will provide both an aesthetic screen and also a physical barrier for possible foot traffic over the TriMet right-of-way between Willamette Park and the OPB site. This physical barrier will ensure that any persons seeking to travel between South Macadam Avenue and Willamette Park in this location will utilize the public accessway provided at South Nevada Street, rather than trespass across the OPB site and the TriMet right-of-way. Thus, the applicant's proposal is supportive of this guideline as it will further encourage the use of the publicly provided pedestrian access to Willamette Park at SW Nevada Street

- ***The Water's Edge. Enhance the scenic qualities of the river and sites that abut the riverbank to contribute to an attractive and enjoyable Greenway Trail;***

The proposed fence will supplement the landscaping at the west side of Willamette Park to obscure views of the OPB site and will result in a more natural setting within the park. This will, as a consequence, enhance the scenic qualities of the riverbank environment and trails at the park.

- ***The Boulevard. Coordinate with and enhance Macadam's boulevard treatment and contribute to the attractiveness of this entrance to the city;***

The proposed fence is neither adjacent to nor visible from South Macadam Avenue and will not diminish its existing boulevard treatment or the attractiveness of this entrance to the City. As previously identified, the applicant is proposing additional interior and perimeter parking lot landscaping that will screen parking areas from South Macadam Avenue and contribute to its attractiveness. The proposed fence will obscure views of the OPB facility from Willamette Park, which serves as a pedestrian-oriented entrance to the City, enhancing this area's natural feeling from a pedestrian's perspective.

- ***Sub-Area Context. Enhance a site's character through designs that are compatible with features of their surroundings and contribute to the development of an attractive character in the vicinity of the project site. Pay particular attention to cases where the adjacent use is different from that which a project will house;***

The proposed fence will help soften and shield views of the existing OPB facility from Willamette Park and the Greenway Trail. In conjunction with the existing row of Pin Oaks and other coniferous trees on the east side of the TriMet right-of-way, the view of the site will be further screened, and the natural character of Willamette Park will be enhanced. In addition, the applicant has also proposed to eliminate four existing parallel parking spaces along the parking structure's eastern edge, with landscaping to be installed in its place. As shown on sheets L3.0 and L3.1 of the plan set, this landscaping includes a row of Pyramidal European Hornbeam trees, which will have a mature size of 35-feet in height and 25-feet in width and will provide additional screening of the OPB facilities.

- ***Signs. Keep signage consistent with and supportive of Macadam Avenue's role as a scenic boulevard while using signs to connect activities housed by a project to the boulevard;***

The proposed fence will be opaque and will block the view of temporary and permanent signage used adjacent to the site's existing loading area for shipments and deliveries, as well as general building access, from pedestrians utilizing Willamette Park and the Greenway Trail. No additional signs are proposed by the applicant at this time.

- ***Johns Landing Masterplan. Comply with the provisions of the Johns Landing masterplan;***

The OPB site is not located within the John's Landing Master Plan area. Therefore, this guideline is not applicable.

- ***Future Light Rail Transit. Preserve the potential for a two-direction, light rail facility within the Macadam Corridor Design Zone as illustrated. Until the LRT facility is constructed, the required setback area may be used for parking and landscaping requirements.***

The proposed fence will not preclude the potential light rail use of the TriMet right-of-way and, if anything, will enhance this potential use by providing an aesthetic screen from the OPB site and a physical barrier that would limit individuals from trespassing onto the right-of-way.

**Modification #2: PCC 33.266.310.E (loading area setbacks and perimeter landscaping)**

**Response:** As previously identified, existing built conditions on the OPB site preclude the ability to provide a five foot buffer on the site's eastern edge. The width of the drive aisle cannot be further reduced due to PCC 33.266.130.F.2, which requires a minimum 12-foot width for one-way drive aisles, such as the segment of the drive aisle where the OPB site's required loading spaces are provided. As stated previously, the drive aisle cannot be eliminated due to the need for vehicular access, including access for loading and emergency vehicles to safely maneuver around the eastern edge of the building. Therefore, a modification to PCC 33.266.310.E is requested.

The proposed fence will screen immediate views of the drive aisle from the TriMet railroad right-of-way to the east, including of loading activities that are necessary for the operation of the active broadcast studio. As previously described, the right-of-way is currently only used for the Willamette Shore Trolley, which operates on a seasonal basis. Immediately east of the right-of-way is Willamette Park, a 26-acre park owned and managed by the City. A row of mature Pin Oak trees and intermittent coniferous trees provide substantial screening of the OPB building and the eastern circulation area, including the existing loading area. These trees have matured over time and their canopies overlap to substantially screen the OPB building, drive aisle, and loading area. The proposed sight-obscuring fence will provide additional screening and further supplement the vegetative screening provided from the trees at Willamette Park. In combination, the total screening provided will offer a significant visual buffer that will equally or better meet the buffer provisions of Table 266-7.

As previously identified, the site is within the Macadam Plan District, and subject to the Macadam Corridor Design Guidelines. The Macadam Corridor Design Guidelines are addressed in Section 6.0 of this narrative. A summary statement in response to each of the six guidelines is provided below to further demonstrate how the proposal better meets these design guidelines.

- ***Visual Connections. Create public views to the river, Greenway Trail and Willamette Park from Macadam Avenue and other public parks and rights-of-way of Macadam as well as views from the river and the Greenway to the west;***

As previously described, the proposed fence will screen and shield the railroad tracks from the public's view when utilizing the building's main entrance, which is elevated above street level. This will have the effect of framing and enhancing the pedestrian viewpoint toward Willamette Park and the Willamette River, as well as the existing row of Pin Oaks and other coniferous trees on the east side of the railroad tracks. Due to the nature of the active broadcast facility, and the need for frequent deliveries which use the loading area, a sight-obscuring fence in conjunction with the existing Pin Oaks and other vegetation within Willamette Park, will more adequately screen trucks and other delivery vehicles from views within Willamette Park, enhancing the park's natural feel.

- ***Physical Connections. Create a common sense of unity that ties both sides of Macadam together with each other, the river to the east and the residential area to the west. Create public walkways that physically connect the Macadam Avenue right-of-way with Willamette Park, the Greenway Trail and the Willamette River;***

The proposed fence will provide both an aesthetic screen and also a physical barrier for possible foot traffic over the TriMet right-of-way between Willamette Park and the OPB

site. This physical barrier will ensure that any persons seeking to travel between South Macadam Avenue and Willamette Park in this location will utilize the public accessway provided at South Nevada Street, rather than trespass across the OPB site and the TriMet right-of-way. Thus, the applicant's proposal is supportive of this guideline as it will further encourage the use of the publicly provided pedestrian access to Willamette Park at South Nevada Street.

- ***The Water's Edge. Enhance the scenic qualities of the river and sites that abut the riverbank to contribute to an attractive and enjoyable Greenway Trail;***

The proposed fence will supplement the landscaping at the west side of Willamette Park to obscure views of the OPB site, and frequent loading activities, which will result in a more natural setting within the park. This will, as a consequence, enhance the scenic qualities of the riverbank environment and trails at the park, while limiting pedestrian views of loading vehicles necessary for the active broadcast studio's operation.

- ***The Boulevard. Coordinate with and enhance Macadam's boulevard treatment and contribute to the attractiveness of this entrance to the city;***

The proposed fence is neither adjacent to nor visible from South Macadam Avenue and will not diminish its existing boulevard treatment or the attractiveness of this entrance to the City. As previously identified, the applicant is proposing additional interior and perimeter parking lot landscaping that will further screen parking areas from South Macadam Avenue and contribute to its attractiveness. The proposed fence will also obscure views of the OPB facility from Willamette Park, which serves as a pedestrian-oriented entrance to the City, enhancing the natural aesthetic of this area from a pedestrian's perspective.

- ***Sub-Area Context. Enhance a site's character through designs that are compatible with features of their surroundings and contribute to the development of an attractive character in the vicinity of the project site. Pay particular attention to cases where the adjacent use is different from that which a project will house;***

The proposed fence will help soften and shield views of the existing OPB facility, and the existing loading area, from Willamette Park and the Greenway Trail. In conjunction with the existing row of Pin Oaks and other coniferous trees on the east side of the TriMet right-of-way, the view of the site will be further screened, and the natural character of Willamette Park will be enhanced. While not immediately adjacent to the loading area, the applicant has also proposed to eliminate four existing parallel parking spaces along the parking structure's eastern edge, with landscaping to be installed in its place. As shown on sheet L3.0 and L3.1 of the plan set, this landscaping includes a row of Pyramidal European Hornbeam trees, which will have a mature height of 35-feet and a canopy width of 25-feet in width. These trees will provide additional screening of the OPB facilities from pedestrian viewpoints within Willamette Park and the Greenway Trail.

- ***Signs. Keep signage consistent with and supportive of Macadam Avenue's role as a scenic boulevard while using signs to connect activities housed by a project to the boulevard;***

The proposed fence will be opaque and will block the view of temporary and permanent signage used adjacent to the site's existing loading area for shipments and deliveries, as

well as general building access, from pedestrians utilizing Willamette Park and the Greenway Trail. No additional signs are proposed by the applicant at this time.

- ***Johns Landing Masterplan. Comply with the provisions of the Johns Landing masterplan;***

The OPB site is not located within the John's Landing Master Plan area. Therefore, this guideline is not applicable.

- ***Future Light Rail Transit. Preserve the potential for a two-direction, light rail facility within the Macadam Corridor Design Zone as illustrated. Until the LRT facility is constructed, the required setback area may be used for parking and landscaping requirements.***

The proposed fence will not preclude the potential light rail use of the TriMet right-of-way and, if anything, will enhance this potential use by providing an aesthetic screen from the OPB site and a physical barrier that would limit individuals or encroaching vegetation from trespassing onto the right-of-way.

**Modification #3: PCC 33.130.270.C.1.a (sight-obscuring fences within ten feet of street lot lines)**

**Response:**

As previously identified, PCC 33.130.235.C requires that ground-mounted mechanical equipment, including the existing satellite dishes and generator north of South Nevada Street, be screened from the street to the L2 or F2 standard. Therefore, the applicant is proposing to replace the existing chain-link fence, which is only partially sight-obscuring, with a six foot completely sight-obscuring wood fence on the north, south, and east sides of the satellite dish and generator area, which meets the F2 standard. On the west side of the satellite dish and generator area, the applicant proposes landscaping to the L2 standard, in conjunction with the existing stained wooden screen which currently meets the F2 standard, to adequately screen the satellite dishes and generator from South Macadam Avenue.

Because PCC 33.130.270.C.1.a limits fully opaque sight-obscuring fences within ten feet of a street lot line to 3.5-feet or less in height, a modification is proposed to allow the six foot sight obscuring fence to be located within ten feet of the lot line along South Nevada Street on the south side of the satellite dish and generator area. Due to the operational needs of the adjacent satellite dish, which typically faces due-south and southeast, L2 landscaping cannot be installed as it will interfere with the operation of the satellite dish upon maturity of any trees planted. Further, the fence cannot be moved closer to the dish due to existing width limitations and the need for a clear path around the satellite dish for routine maintenance. This modification is only subject to the portion of the proposed fence that is within ten feet of the South Nevada Street lot line.

As previously identified, the site is within the Macadam Plan District, and is subject to the Macadam Corridor Design Guidelines. The Macadam Corridor Design Guidelines are addressed in Section 6.0 of this narrative. A summary statement in response to each of the six guidelines is provided below to further demonstrate how the proposal better meets these design guidelines.

- ***Visual Connections. Create public views to the river, Greenway Trail and Willamette Park from Macadam Avenue and other public parks and rights-of-way of Macadam as well as views from the river and the Greenway to the west;***

The satellite dish and generator area is immediately adjacent to one of Willamette Park's main pedestrian-oriented entrances via South Nevada Street. The existing chain-link fence is only partially sight-obscuring, whereas the proposed fence will be completely sight-obscuring, thereby enhancing the view corridor from South Nevada Street toward Willamette Park, the Greenway Trail, and the Willamette River by more completely shielding views of the adjacent satellite dishes and generator from pedestrian views. Proposed landscaping on the west side of the satellite dish and generator area will complement the enhanced sight-obscuring fence over existing conditions to increase this visual connection. Enhanced landscaping on the south side of South Nevada Street will also assist in framing this view corridor in conjunction with the proposed sight-obscuring fence.

- ***Physical Connections. Create a common sense of unity that ties both sides of Macadam together with each other, the river to the east and the residential area to the west. Create public walkways that physically connect the Macadam Avenue right-of-way with Willamette Park, the Greenway Trail and the Willamette River;***

The proposed fence will provide an enhanced aesthetic screen of the adjacent satellite dish and generator area over the existing chain-link fence, which is only partially sight-obscuring. Similar to the proposed fence along the eastern boundary of the OPB site, this fence will also provide a physical barrier between adjacent foot traffic seeking to access Willamette Park via South Nevada Street. More thorough screening of the satellite dish and generator area will enhance the pedestrian connection between South Madam Avenue by improving the view corridor between Willamette Park to the east residential areas located west of Macadam.

- ***The Water's Edge. Enhance the scenic qualities of the river and sites that abut the riverbank to contribute to an attractive and enjoyable Greenway Trail;***

The proposed sight-obscuring fence will complement enhanced landscaping proposed on the south side of South Nevada Street, as well as landscaping proposed on the west side of the satellite dish and generator area. The proposed fence will limit pedestrian views of the satellite dishes and generator, which will enhance the scenic qualities of the riverbank environment and trails within the park.

- ***The Boulevard. Coordinate with and enhance Macadam's boulevard treatment and contribute to the attractiveness of this entrance to the city;***

The proposed sight-obscuring fence will be an aesthetic upgrade over the existing chain-link fence, while also providing enhanced screening of the adjacent satellite dish and generator area from pedestrians accessing Willamette Park via South Nevada Street. Enhanced landscaping proposed on the south side of South Nevada Street, as well as landscaping proposed on the west side of the satellite dish and generator area, will also serve to further screen and shield the OPB facilities from views from South Macadam Street to the west and Willamette Park to the east.

- ***Sub-Area Context. Enhance a site's character through designs that are compatible with features of their surroundings and contribute to the development of an attractive character in the vicinity of the project site. Pay particular attention to cases where the adjacent use is different from that which a project will house;***

The proposed sight-obscuring fence will help soften and shield views of the existing satellite dishes and generator from Willamette Park and the Greenway Trail. In conjunction with existing and enhanced landscaping proposed within the OPB site on either side of South Nevada Street, the site as a whole (including the satellite dish and generator area) will be further screened, and the natural character of Willamette Park, and the view corridors to and from the park, will be enhanced as a result. The proposed sight-obscuring fence will also be an aesthetic upgrade to the existing chain-link fence, contributing to the attractiveness of the area in the vicinity of the OPB site.

- ***Signs. Keep signage consistent with and supportive of Macadam Avenue's role as a scenic boulevard while using signs to connect activities housed by a project to the boulevard;***

The proposed fence will be opaque and will block the view of permanent signage used within the satellite dish and generator area from pedestrians utilizing the South Nevada Street access to Willamette Park and the Greenway Trail. No additional signs are proposed by the applicant at this time.

- ***Johns Landing Masterplan. Comply with the provisions of the Johns Landing masterplan;***

The OPB site is not located within the John's Landing Master Plan area. Therefore, this guideline is not applicable.

- ***Future Light Rail Transit. Preserve the potential for a two-direction, light rail facility within the Macadam Corridor Design Zone as illustrated. Until the LRT facility is constructed, the required setback area may be used for parking and landscaping requirements.***

The proposed fence will not preclude the potential light rail use of the TriMet right-of-way and, if anything, will enhance this potential use by providing an enhanced aesthetic screen of the existing satellite dishes and generator from the perspective of the right-of-way.

**B. Purpose of the standard. On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.**

**Modification #1: PCC 33.266.130.G.2 (parking area setbacks and perimeter landscaping)**

**Response:** Per PCC 33.266.130, the purpose of the standards that include the landscape buffer provision in Table 266-5 of PCC 33.266.130.G.2 are to "promote vehicle areas that are safe and attractive for motorists and pedestrians."

The applicant has considered the purpose of the parking lot development standards and believes that, on balance, the proposed modification remains consistent with these provisions. First, the overarching purpose of the standards is to promote vehicle areas that are both "safe and attractive", meaning that the provisions are intended to ensure that on-site vehicular movements can be safely accomplished while mitigating any potential aesthetic impacts of the paved surfaces and vehicular activity. The applicant's proposal is specifically intended to balance the need for screening on the eastern property line with the need for adequate and safe maneuvering room for vehicular movements. In addition, PCC 33.266.130 includes other purpose statements as identified below. The applicant has provided a summary statement in response to each of these

purpose statements to further demonstrate how the proposal is consistent with the purpose of the standard.

- ***Improve and soften the appearance of parking areas;***

There are only two surface parking spaces proposed on the east side of the OPB parking structure that would be visible from the east and the remainder of the parking spaces are located under the parking deck north of the OPB building. The proposed fence will shield views of the driveway aisle from off-site properties to the east. Additionally, elsewhere on site, OPB has eliminated two parking spaces so that the interior parking lot landscaping exceeds the minimum standard, which improves and softens the appearance of the parking area.

- ***Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones;***

The proposed fence will be fully opaque and will block views of the drive aisle and circulating vehicles from residences located to the southeast. Additionally, elsewhere on site, OPB has eliminated two parking spaces so that the interior parking lot landscaping exceeds the minimum standard, which reduces the visual impact of the parking area.

- ***Provide flexibility to reduce the visual impacts of small residential parking lots;***

The proposal is not for a residential parking lot and this purpose provision does not apply.

- ***Direct traffic in parking areas;***

The proposed fence will provide a visual demarcation of the parking area and will provide greater definition of the dividing line between the OPB property and the TriMet right-of-way.

- ***Shade and cool parking areas;***

The proposed landscape buffer is applied to the drive aisle and only two parking spaces are located along the drive aisle. Due to the height of the OPB structure, which is located on the west side of the site and the height of the trees that line the west edge of Willamette Park, the drive aisle area adjacent to the eastern property line is substantially shaded and further landscaping is not necessary to cast shade on the area. Additionally, elsewhere on site, OPB has eliminated two parking spaces so that the interior parking lot landscaping exceeds the minimum standard, which provides additional shade and cooling within the parking area.

- ***Reduce the amount of stormwater runoff from vehicle areas;***

The applicant's proposal includes the conversion of two parking spaces to landscape islands. This conversion of impervious surface to landscape area will reduce the amount of stormwater runoff from the site from current conditions.

- ***Reduce the pollution and temperature of stormwater runoff from vehicle areas; and***

As noted above, the applicant's proposal will reduce the extent of impervious surface on the site and there will be a net reduction of stormwater runoff as a result of the site's nonconforming upgrades.

- ***Decrease airborne and waterborne pollution.***

As noted above, the proposal will increase the extent of landscaping area and plant density throughout the OPB site, which will result in additional tree plantings that serve as a carbon “sink” and will reduce the extent of potential pollutant-generating impervious surface on the site.

For all of the reasons noted above and as further described throughout this narrative, the proposed fence is consistent with the purpose of the L2 landscaping standard as described in PCC 33.266.130.

**Modification #2: PCC 33.266.310.E (loading area setbacks and perimeter landscaping)**

**Response:** Per PCC 33.266.310.A, the general purpose of the loading area standards are to provide areas for loading that are necessary for larger uses and developments, such as the OPB site and its active broadcast studio, which requires frequent deliveries. These standards are also intended to create loading areas that appear similar to adjacent parking areas. The applicant has considered the purpose of the loading area standards and believes that, on balance, the proposed modification remains consistent with these provisions. In support of this modification, the various elements of the purpose statement provided by PCC 33.266.310.A are addressed with a summary statement in response to each of these elements to demonstrate how the proposal is consistent with the overall purpose of the loading area standards.

- ***A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments.***

The proposed modification to provide a six foot completely sight obscuring wood fence does not limit the OPB site’s ability to provide a minimum of two loading spaces that meet the dimensional requirements per PCC 33.266.310.D. As identified on sheet L3.0 of the plan set, two loading spaces continue to be provided. Further, by providing a sight-obscuring fence adjacent to the loading area, as opposed to a five foot landscape strip which would further limit the width of the paved area between the OPB building and the TriMet right-of-way, adequate width can continue to be provided for loading purposes.

- ***These regulations ensure that the appearance of loading areas will be consistent with that of parking areas.***

While not immediately adjacent to the OPB site’s existing parking areas, the appearance of the loading area will be consistent with that of the drive aisle along the eastern edge of the OPB site. The completely sight-obscuring fence, together with the existing Pin Oaks and intermittent coniferous trees within Willamette Park, will also enhance the screening of the loading area from views from Willamette Park and the Greenway Trail, which are frequently in-use as a result of the active broadcast studio. Creating a distinct definition between the public right-of-way, as well as Willamette Park, from the private spaces within the OPB site, is also supportive of the overall purpose of landscaping and screening as identified by PCC 33.248.010 to “enhance and define public and private spaces”. Additional landscaping plantings on the east side of the parking structure proposed in lieu of four parallel parking spaces will provide additional screening of the loading area when viewed from South Nevada Street and one of the main pedestrian-oriented access points to Willamette Park and the Greenway Trail.

- ***These regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way.***

The proposed modification to provide a six foot completely sight-obscuring wood fence will not have a negative effect on the traffic safety or transportation functions of the abutting right-of-way. Two-way access from the adjacent parking structure will continue to be provided, allowing vehicles that are existing the parking structure to exit the site via South Nevada Street, ensuring that loading operations within the drive aisle to the south will not interfere with passenger vehicles. Further, in support of the Macadam Corridor Design Guidelines, which seeks to preserve the adjacent railroad right-of-way for future light rail transit, the proposed sight-obscuring fence will provide a physical demarcation between the OPB site and this right-of-way, providing a more formal barrier that would prevent activities from encroaching into the adjacent right-of-way.

**Modification #3: PCC 33.130.270.C.1.a (sight-obscuring fences within ten feet of street lot lines)**

**Response:** Per PCC 33.130.270.A, the purpose of the fence regulations within commercial zones is to limit any negative effects that fences may have in limiting visibility into and out of a site, while also ensuring visibility for motorists, especially for proposed fences near streets. The applicant has considered the purpose of the fence standards and believes that, on balance, the proposed modification remains consistent with these provisions given the unique locations of the proposed fence subject to this modification request and that the fence screens mechanical equipment, not an occupiable building that benefits from having visibility into and out of the site. In support of this modification, the various elements of the purpose statement provided by PCC 33.130.270.A are addressed with a summary statement in response to each of these elements to demonstrate how the proposal is consistent with the overall purpose of the fence standards.

- ***The fence regulations promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety.***

While the proposed completely sight-obscuring wood fence is proposed within ten feet of a street lot line and will be adjacent to South Nevada Street and the accompanying sidewalk, it will not negatively impact the community or endanger public or vehicle safety. Rather, a completely sight-obscuring fence in this location creates a greater physical barrier between pedestrians seeking to access Willamette Park via South Nevada Street than a partially sight-obscuring fence could and provides a more substantial barrier to prevent trespassing into the satellite dish and generator area. Further, vehicle access on South Nevada Street does not continue past the TriMet right-of-way. Vehicles exiting the surface parking lot north of South Nevada Street will have a clear viewpoint toward the other two driveways south of South Nevada Street. As a consequence, a completely sight-obscuring fence will not impede vehicle safety when vehicles enter and exit any of the OPB site's three driveways adjacent to the proposed fence.

The proposed sight-obscuring fence will also further promote the positive benefits of fences by enhancing the existing screening of the satellite dish and generator area from views over existing site conditions. A completely sight-obscuring fence in this area also enhances the view corridor to and from Willamette Park in support of the Macadam Corridor Design Guidelines and the Macadam Plan District, which seeks to maintain and enhance view corridors along various rights-of-way, including South Nevada Street. A completely sight-obscuring fence within ten feet of the street lot line also meets the standard for adequate screening of ground-mounted mechanical equipment (such as the existing satellite dishes and generator), which requires screening to the F2 or L2 standard. As previously described, due to the operational needs of the adjacent satellite dish, which routinely faces due-south and southeast, L2 landscaping cannot be installed in-lieu of a sight-obscuring fence as it will interfere with the operation of the satellite dish upon

maturity of any trees planted. Further, the fence cannot be moved closer to the dish due to existing width limitations and the need for a clear path around the satellite dish for routine maintenance. Therefore, the proposed modification allows the site to comply with these standards when alternatives are not viable given current site conditions.

- ***Fences near streets are kept low in order to allow visibility into and out of the site and to ensure visibility for motorists***

As previously stated, the proposed six foot completely sight-obscuring fence will not impede visibility into and out of the site for pedestrians or motorists. Vehicle access on South Nevada Street does not continue past the TriMet right-of-way, and vehicles exiting the surface parking lot north of South Nevada Street will have a clear viewpoint toward the other two driveways south of South Nevada Street. As a consequence, a completely sight-obscuring fence will not impede vehicle safety when vehicles enter and exit any of the OPB site's three driveways adjacent to the proposed fence. Further, the fence screens mechanical equipment, not an occupiable building that benefits from having visibility into and out of the site.

- ***Fences in any required side or rear setback are limited in height so as to not conflict with the purpose of the setback.***

The proposed sight-obscuring fence is along a street lot line (South Nevada Street), and the CS zone does not maintain street lot line setbacks. Therefore, the proposed modification does not conflict with the purpose of any setbacks. On the contrary, the proposed sight-obscuring fence instead meets the standard for adequate screening of ground-mounted mechanical equipment (such as the existing satellite dishes and generator), which requires screening to the F2 or L2 standard. As previously described, due to the operational needs of the adjacent satellite dish, which typically faces south and southeast, L2 landscaping cannot be installed in-lieu of a sight-obscuring fence as it will interfere with the operation of the satellite dish upon maturity of any trees planted. Further, the fence cannot be moved closer to the dish due to existing width limitations and the need for a clear path around the satellite dish for routine maintenance of the equipment. Therefore, the proposed modification allows the site to comply with these screening standards, and the completely sight-obscuring fence does not need to be limited in height due to any conflicts with CS zone setbacks.

### **33.825.055 Approval Criteria**

**A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.**

**Response:** The Macadam Corridor Design Guidelines are addressed for compliance in Section 6.0 of this narrative, demonstrating the applicant's proposal meets the special characteristics of the Macadam Design District.

### **33.825.065 Design Guidelines**

- A. Purpose: Design Guidelines are the approval criteria used to review new development and modifications to existing development. They ensure the conservation and enhancement of the special characteristics of each design district.**

**Response:** The Macadam Corridor Design Guidelines are addressed for compliance in Section 6.0 of this narrative, demonstrating the applicant's proposal meets the special characteristics of the Macadam Design District.

- B. Design guidelines.** Guidelines specific to a design district have been adopted for the areas shown on maps 420-1 through 420-3 and 420-5 through 420-6. Where two of the design districts shown on those maps overlap, both sets of guidelines apply.

All other areas within the Design Overlay Zone or proposals subject to design review use the Community Design Guidelines. A district's design guidelines are mandatory approval criteria used in design review procedures. The design guidelines may consist of a common set of design guidelines for the whole district and special design guidelines for subdistricts.

Where subdistrict guidelines conflict with the district guidelines, the subdistrict guidelines control.

**Response:** The Macadam Corridor Design Guidelines are addressed for compliance in Section 6.0 of this narrative, demonstrating the applicant's proposal meets the special characteristics of the Macadam Design District. As a result, the Community Design Guidelines are not applicable, and are not addressed in this narrative.

## 5.0 Willamette Greenway Plan Design Guidelines

### Issue A. Relationship of structures to the Greenway Setback Area

- 1. Structure Design.** The Greenway Setback area should be complemented and enhanced by designing, detailing, coloring, and siting structures and their entrances to support the pedestrian circulation system, including both the Greenway trail and access connections.
- 2. Structure Alignment.** Where surrounding development follows an established block pattern, alignment with the block pattern should be considered in structure placement. Structure alignment should also take into account potential view corridors from existing public rights-of-way or acknowledged viewpoints. The pedestrian access system should be designed to take advantage of these alignments.

**Response:** The OPB site is not within the Greenway Setback area. The applicant's proposed alterations to the site's landscaping and parking areas do not alter or hinder access to the Greenway trail or its access connections. Alterations to the site's existing buildings are not proposed. Therefore, this policy does not apply.

### Issue B. Public Access

- 1. Public Access.** New developments should integrate public access opportunities to and along the river into the design of the Project. This includes the Greenway trail, formal viewpoints, access connections to the Greenway trail, and internal site pedestrian circulation.

**Response:** The applicant's proposed alterations to the site's landscaping and parking areas do not alter or hinder public access opportunities to and along the Willamette River, including the Greenway trail, viewpoints, access connections, and internal site pedestrian circulation. Therefore, this policy is met.

- 2. The pedestrian circulation system, including Greenway trail, viewpoints, and trail access connections, should be designed to ensure adequate separation and screening from parking, loading, circulation routes, external storage areas, trash dumpsters, exterior vents, mechanical devices, and other similar equipment.**

**Response:** The pedestrian circulation system, including the Greenway trail, viewpoints, and trail access connections, are not altered with the applicant's proposal. Therefore, this policy is met.

**3. Signage. Access connections should be clearly marked.**

**Response:** Greenway trail access connections are not altered by the applicant's proposal, and no new signs are proposed. Therefore, this policy does not apply.

**4. Access to Water's Edge. Where site topography and conservation and enhancement of natural riverbank and riparian habitat allow, safe pedestrian access to the water's edge is encouraged as part of the Project.**

**Response:** Access to the water's edge is not impacted or hindered by the applicant's proposal. Therefore, this policy is met.

**Issue C. Natural Riverbank and Riparian Habitat**

- 1. Natural Riverbanks. The natural riverbank along the Willamette River should be conserved and enhanced to the maximum extent practicable. Modification of the riverbank should only be considered when necessary to prevent significant bank erosion and the loss of private property, or when necessary for the functioning of a river-dependent or river-related use.**
- 2. Riparian Habitat. Rank I riparian habitat areas, as identified in the wildlife habitat inventory, should be conserved and enhanced with a riparian landscape treatment. Other riparian habitat should be conserved and enhanced through riparian landscape treatments to the maximum extent practical. Conservation however does not mean absolute preservation. Some discretion as to what vegetation should remain and what can be removed and replaced should be permitted. Riparian habitat treatments should include a variety of species of plants of varying heights that provide different food and shelter opportunities throughout the year.**

**Response:** The site does not abut the riverbank. Therefore, this policy does not apply.

**Issue D. Riverbank Stabilization Treatments**

- 1. Riverbank Enhancement. Riverbank stabilization treatments should enhance the appearance of the riverbank, promote public access to the river, and incorporate the use of vegetation where practical. Areas used for river-dependent and river-related industrial uses are exempted from providing public access.**

**Response:** The site does not abut the riverbank. Therefore, this policy does not apply.

**Issue E. Landscape Treatments**

- 1. Landscape Treatments. The landscape treatment should create an environment which recognizes both human and wildlife use. Areas where limited human activity is expected should consider more informal riparian treatments. Areas of intense human use could consider a more formal landscape treatment. The top of bank may be considered a transition area between a riparian treatment on the riverbank and a more formal treatment of the upland.**
- 2. Grouping of Trees and Shrubs. In areas of more intense human use, trees and shrubs can be grouped. The grouping of trees and shrubs allows for open areas for human use, and has the secondary value of increasing the value of the vegetation for wildlife.**
- 3. Transition. The landscape treatment should provide an adequate transition between upland and riparian areas and with the landscape treatments of adjacent properties.**

**Response:** As identified in response to PCC 33.440.230, the OPB site is not within the greenway setback, or riverward of the greenway setback, and specific landscape standards contained therein are not applicable. Proposed landscape improvements increase the

number of trees, shrubs, and groundcover on the site as identified on sheet L3.0 of the plan set and demonstrated in response to PCC 33.248 in this narrative. Proposed plantings will not negatively impact the Willamette River or Willamette Park. Therefore, this policy is met.

#### **Issue F. Alignment of Greenway Trail**

**Response:** No portion of the Greenway trail is located within the OPB site per the Willamette Greenway Public Access Map. Therefore, this policy does not apply.

#### **Issue G. Viewpoints**

**Response:** No viewpoints are located within the OPB site per the Willamette Greenway Public Access Map. Therefore, this policy does not apply.

#### **Issue H. View Corridors**

1. **Right-of-way Protection. View corridors to the river along public rights-of-way are to be protected. These rights-of-way should not be vacated.**
2. **View protection. Buildings, structures or other features must be located to avoid blocking view corridors.**
3. **Landscape Enhancement. Landscape treatments within view corridors should frame and enhance the view of the river.**

**Response:** South Nevada Street is a designated view corridor per the Willamette Greenway Public Access Map. The applicant is not requesting vacation of South Nevada Street or other land use action(s) that would alter the right-of-way's protection as a view corridor. None of the applicant's proposals will hinder the view corridor's intent or purpose. Proposed landscaping will additionally help frame and enhance the view corridor toward Willamette Park and the Willamette River by screening and softening the edges of the vehicle areas on-site. Therefore, this policy is met.

## **6.0 Macadam Corridor Design Guidelines**

1. **Visual Connections. Create public views to the river, Greenway Trail and Willamette Park from Macadam Avenue and other public parks and rights-of-way west of Macadam as well as views from the river and the Greenway to the west.**

**Response:** The proposed wood fencing will be located east of the OPB building and south of the satellite dish and generator area and will, therefore, not impede public views to the river, Greenway Trail, or Willamette Park from South Macadam Avenue as intended by this guideline. Therefore, this guideline is met.

2. **Physical Connections. Create a common sense of unity that ties both sides of Macadam together with each other, the river to the east and residential area to the west. Create public walkways that physically connect the Macadam Avenue right-of-way with Willamette Park, the Greenway Trail and the Willamette River.**

**Response:** There is an existing sidewalk on the north side of South Nevada Street that connects South Macadam Avenue with Willamette Park. The applicant's proposal is limited to on-site improvements and will not affect any physical public connections. The proposed fencing will provide both an aesthetic screen and also a physical barrier for possible foot traffic over the TriMet right-of-way between Willamette Park and the OPB site. This physical

barrier will ensure that any persons seeking to travel between South Macadam Avenue and Willamette Park in this location will utilize the public accessway provided at South Nevada Street, rather than trespass across the OPB site and the TriMet right-of-way. Thus, the applicant's proposal is supportive of this guideline as it will further encourage the use of the publicly provided pedestrian access to Willamette Park at South Nevada Street. Therefore, this guideline is met.

**3. The Water's Edge. Enhance the scenic qualities of the river and sites that abut the riverbank to contribute to an attractive and enjoyable Greenway Trail.**

**Response:** The site does not abut the riverbank. However, the fencing will help obscure the existing OPB building and ground-mounted mechanical equipment (satellite dishes and generator) from the pedestrian perspective within Willamette Park and along the Greenway Trail, which will contribute to the overall attractiveness and natural feel of the park and trail area. Therefore, this guideline is met.

**4. The Boulevard. Coordinate with and enhance Macadam's boulevard treatment and contribute to the attractiveness of this entrance to the city.**

**Response:** As shown on sheet L3.0 of the plan set, high-quality and durable landscape plantings are proposed along the perimeter of the parking areas abutting South Macadam Avenue. The layering of shrubs and canopy trees soften the vehicle area and enhance the boulevard's treatment and contribute to the attractiveness of this entrance to the City. The proposed sight-obscuring fencing will also further screen and shield the OPB building and satellite dish and generator area from views from Willamette Park, which serves as an additional pedestrian entrance to the City, and alternative to South Macadam Avenue. Therefore, this guideline is met.

**5. Sub-Area Context. Enhance a site's character through designs that are compatible with features of their surroundings and contribute to the development of an attractive character in the vicinity of the project site. Pay particular attention to cases where the adjacent use is different from that which a project will house.**

**Response:** As shown on sheet L3.0 of the plan set, high-quality and durable landscape plantings are proposed along the perimeter of the parking areas abutting South Macadam Avenue and South Nevada Street. Differing uses to the east (Willamette Park and single-family residential) are buffered from the site by a proposed sight-obscuring six foot wood fence where landscaping treatments are not possible due to site constraints. The layering of shrubs and canopy trees, in conjunction with the proposed fence, soften the vehicle areas and enhance the site's character. Therefore, this guideline is met.

**6. Signs. Keep signage consistent with and supportive of Macadam Avenue's role as a scenic boulevard while using signs to connect the activities housed by a project to the boulevard.**

**Response:** The existing monument sign will remain as approved in the previous sign permit application (2012-120842-000-00-SG). Additionally, the proposed fencing will be opaque and will block the view of temporary and permanent signage used adjacent to the site's existing loading zone for shipments and deliveries, as well as general building access, and the satellite dish and generator area, from pedestrians utilizing Willamette Park and the Greenway Trail. No additional signs are proposed by the applicant at this time. Therefore, this guideline is met.

**7. Johns Landing Masterplan. Comply with the provisions of the Johns Landing Masterplan.**

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**Response:** The OPB site is not located within the John's Landing Master Plan area. Therefore, this guideline does not apply.

- 8. Future Light Rail Transit. Preserve the potential for a two-direction, light rail facility within the Macadam Corridor Design Zone as illustrated. Until the LRT facility is constructed, the required setback area may be used for parking and landscaping requirements.**

**Response:** The project is bordered on its east boundary by the TriMet railroad right-of-way. The project does not interfere with the use of the right-of-way, today, or in the future. The proposed fence adjacent to the TriMet right-of-way will further deter encroachments into this right-of-way. Therefore, this guideline is met.

## **7.0 Conclusion**

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As evidenced throughout this narrative and associated documents, the applicant's Type III Design Review with Modifications, and Greenway Review requests are consistent with the applicable policies and regulations governing the allowance of the requested actions. Therefore, the applicant respectfully requests City of Portland's approval of these requests.