

ALBERT W. SOLHEIM

August 9, 2016

Planning and Sustainability Commission
1900 SW 4th Avenue, #7100
Portland, OR 97201

Re: Proposed Zoning Code Changes in the 13th Avenue Historic District

Dear Planning and Sustainability Commissioners,

I was the primary advocate to create the 13th Avenue Historic District in 1995 (the "District"). My partners and I own 4 important buildings in the District. Our desire to protect the buildings and their economic viability remains unchanged. The proposed Zoning Code amendments and the proposed "Seismic Design Requirements for Existing Buildings", a soon to be adopted and un-funded mandate, have the potential to significantly alter the economic viability of these buildings and the sustainability of the District. It is imperative that any proposed Code changes recognize these cumulative threats and be crafted to support, rather than diminish the District.

Height

Today the base height in the District is 100 feet from NW Davis Street to NW Hoyt Street and 75 feet between NW Hoyt and NW Johnson. We also have the opportunity to add 45 feet in height through the FAR-related height bonus or 75 feet in height through the discretionary housing height bonus. These bonuses are not additive and in no case can the bonus height exceed 75 feet.

The proposed code revisions reduce the allowed base height from NW Davis Street to NW Hoyt Street from 100 feet to 75 feet and remove the District from any opportunity for even a limited height bonus, above this new lower base height. These changes are shown on Map 510-3, attached as Exhibit A and on the cross-section shown on the attached Exhibit B. Importantly, there are three contributing buildings in the District that already exceed 75 feet in height as shown on Exhibit C.

While our District suffers reduced base heights and no height bonus allowance, other properties still enjoy some level of height bonus. Under the proposed code, if a property outside of the District earns at least 1:1 FAR through the affordable housing bonuses or the historic FAR transfer provisions, the property can earn at least 75 feet in bonus height up to the new maximums on Map 510-4, attached as Exhibit D. For the 13th Avenue District, this means that properties in the District no longer have the opportunity to even put one or two floors on a 75 foot building through any review or height bonus but properties immediately adjacent to the District can reach heights of 250 feet.

The District must maintain at least some opportunity for limited and appropriate height bonuses. The District is currently subject to the regulatory oversight of the Landmarks Commission under PCC 33.445.300. Any exterior alteration or new development in the District undergoes a rigorous discretionary review by the Landmarks Commission which reviews applications under the NW 13th Avenue Historic District Guidelines and the Central City Fundamental Guidelines. In that required

review, the Commission determines whether the alteration or development meets both sets of Guidelines and the 10 Landmarks approval criteria including historic character, record of its time, historic materials, and architectural compatibility, among others. These protections have been sufficient to ensure preservation of the District for over the last 20 years.

While the new height bonus provisions may exceed what is appropriate for the District, it is equally true that reducing the base height in the District from 100 feet to 75 feet between Hoyt and Davis, and taking away any reasonable option for a more appropriate and tailored height bonus, threatens the continued vitality of the District. For example, retaining the existing base heights and capping the FAR-related height bonus in the District at 45 feet through Landmarks Commission review will provide an avenue to add a few floors to an existing building and offer the necessary incentives to preserve and retain properties within the District. Retaining the FAR-related bonus will also support the City's affordable housing goals because, as discussed below, the first 2:1 FAR bonus earned in the District must now come from affordable housing or payment into the affordable housing fund. This FAR bonus will then be converted into a limited and reasonable height bonus, supporting both preservation of historic resources and affordable housing objectives.

We understand that the counter concern is that a height bonus could also incentivize a developer to build anew. However, that has not been the experience in this District. Further, that threat is highly speculative because the Landmarks Commission has the ability in response to any new proposal to determine if the proposal meets the District's guidelines.

With these protections in place, there is assurance that the integrity and scale of the District will be continually maintained and only appropriate exterior alterations or developments will be permitted.

Floor Area Ratio (FAR) Bonus and Transfer Changes

The City is proposing to eliminate most existing FAR bonuses except for the affordable housing bonus (affordable housing must be constructed on-site and at least 25% of units must be affordable at 80% MFJ) and the affordable housing fund bonus (pay per square foot at a rate determined by Portland Housing Bureau every three years).

The City's proposed changes also eliminate most current FAR transfer options except transfers from qualifying historic resources. The types of historic resources that can transfer floor area are being expanded beyond landmarks to also include contributing resources in a historic or conservation district that meet City seismic requirements.

This change on its face helps preserve historic resources by allowing more historic resources the opportunity to monetize air rights. But some components of the new priority rules also undermine this value.

Under the new rules, all of the first 2:1 FAR over the base FAR on a receiving site must be either earned from the affordable housing/fund bonuses or transferred from a qualifying historic resource within either the Skidmore/Old Town or New Chinatown/Japantown historic districts. This provision is unacceptable for a number of reasons:

1. This provision values two historic districts and their resources over every other district or resource in the City (see Exhibit E). The only explanation for this priority is that the

two districts were identified as “key preservation priority areas” in the West Quadrant process. Were other districts studied using the same form of analysis or level of advocacy and found to be so much less important that they are secondary priority in the codified FAR transfer structure? There does not appear to be a sound basis or adequate record for creating such a priority amongst historic resources in the City; and

2. This priority significantly devalues the 13th Avenue historic FAR because it cannot be used until someone proves that there is no available FAR in the two identified districts to transfer. The system puts a premium on the FAR rights from Old Town and Japantown and devalues the “secondary” or “inferior” FAR from 13th Avenue. The 13th Avenue District is not inferior or secondary and the code should not aim to make it so.

The value of this new transfer allowance is also not a given and is instead dependent on whether there is any market for the historic FAR after the primary market from Old Town and Japantown is absorbed. Thus, the increased transfer potential should not be viewed as a mitigating factor for reducing the base height and taking away any height bonus in the District. Instead the base and appropriate bonus height should be preserved and the transfer provisions should be adopted with equal priority for all Historic Districts.

The most recent code package seems to recognize that the sale of unused FAR, and up to 3:1 additional FAR from an historic resource, is needed to help partially fund the now-required seismic upgrades. The amendments therefore incorporate phased seismic agreements so that a property owner can sell its FAR before completing the upgrades. The timing of the phases and the enforcement mechanisms will be critical in assessing the practicality of this approach. However, phased implementation is a critical component of the proposal and must be retained if seismic upgrades will be required.

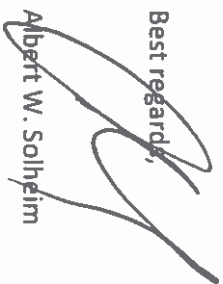
Cumulatively, under the code amendments, the 13th Avenue Historic District suffers a base height reduction, loses all of its bonus height options and has its unused FAR reduced to a secondary market behind Japantown and Old Town. With the added requirements for mandatory seismic upgrades, the code amendments will not likely have the intended incentivizing impact and instead may undermine the sustainability of the District.

In sum, we are requesting that the Planning Commission consider the following:

1. *We support eliminating the potential 75-foot height bonus in current code for the District;*
2. *We support the allowed density transfers from contributing properties to pre-fund mandatory seismic upgrades through phased seismic upgrade requirements;*
3. *Retain an FAR or transfer related 45-foot height bonus for the 13th Avenue District;*
4. *Eliminate prioritization of density transfer from Skidmore/Old Town and new Chinatown/Japantown historic districts; and*
5. *Retain the 100-foot height base height limit from NW Davis Street to NW Hoyt Street as there are two contributing buildings in this portion of the district at approximately 80 feet and 88 feet in height respectively.*

Please consider these comments as you make recommendations to the City Council on these important provisions.

Best regards,

A handwritten signature in black ink, appearing to read 'AS', written over the text 'Best regards,'.

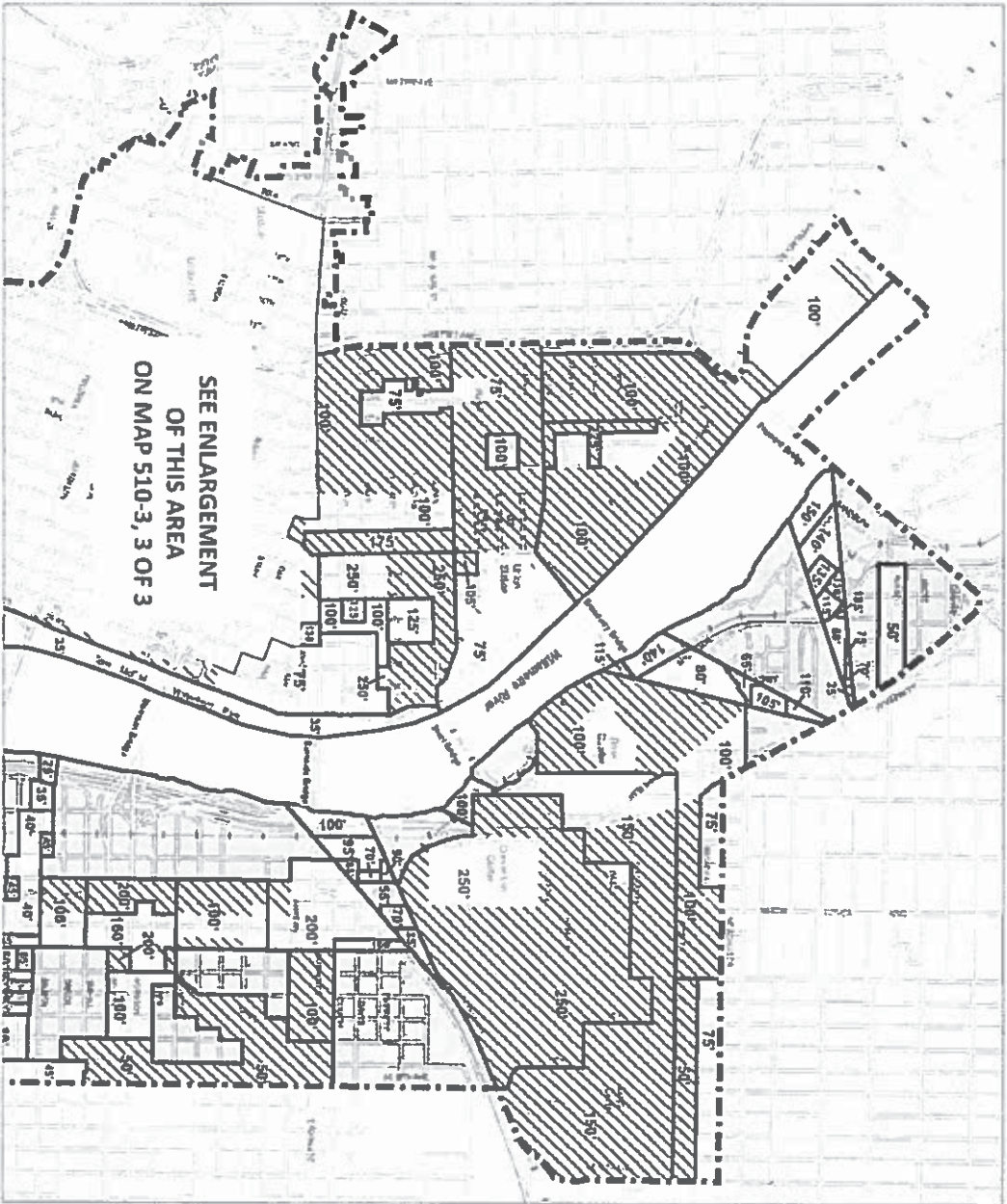
Albert W. Solheim

Proposed Base Heights








Map 510-3

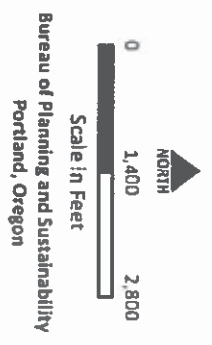
Map 1 of 3

Map Revised xxxxx XI, 201X



Legend

-  Central City Plan District boundary
-  Proposed right-of-way
-  Base building height
-  Proposed accessways
-  Areas where height is determined by base zone
-  Area eligible for height increase
-  Base height limit of 75' for first 125 feet from top of bank



6/20/2016

Proposed Draft Central City 2035 Plan
Chapter 33.510, Central City Plan District

13TH STREET SECTION LOOKING WEST (PRESENT ZONING CODE)

EXHIBIT B

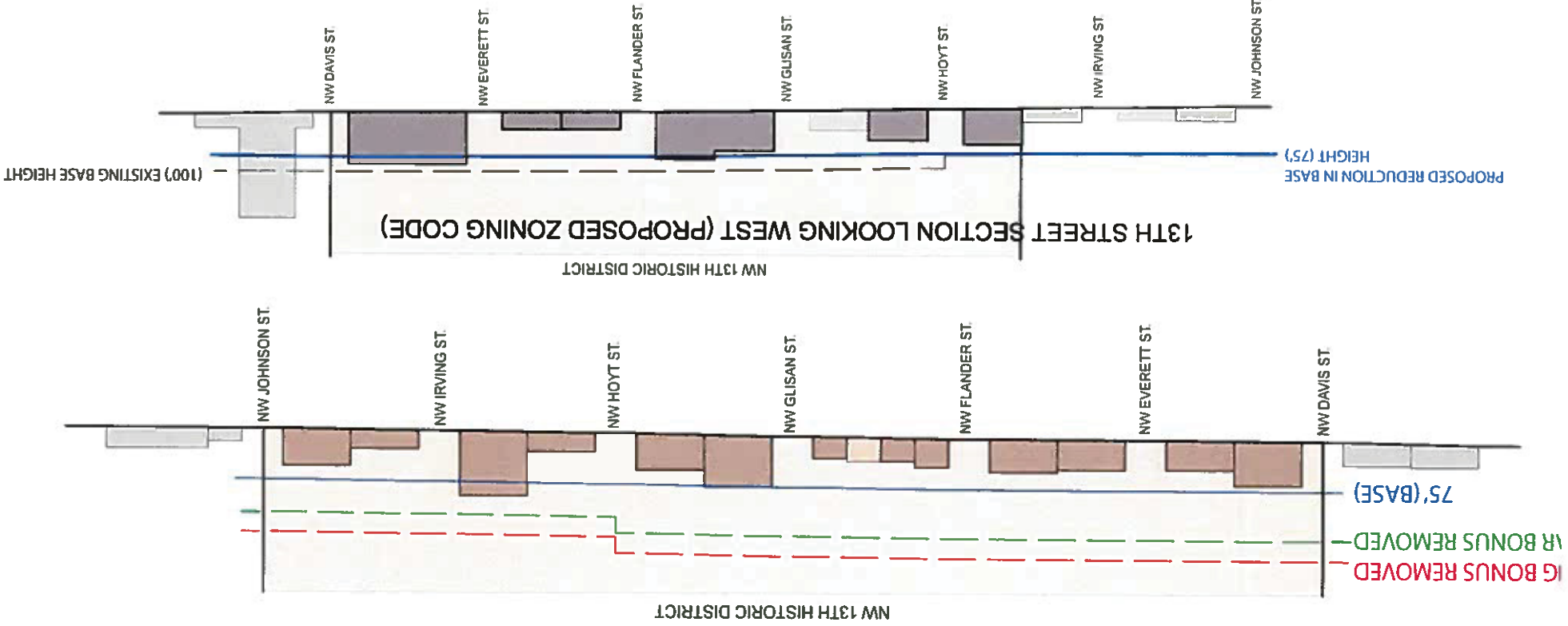


EXHIBIT C



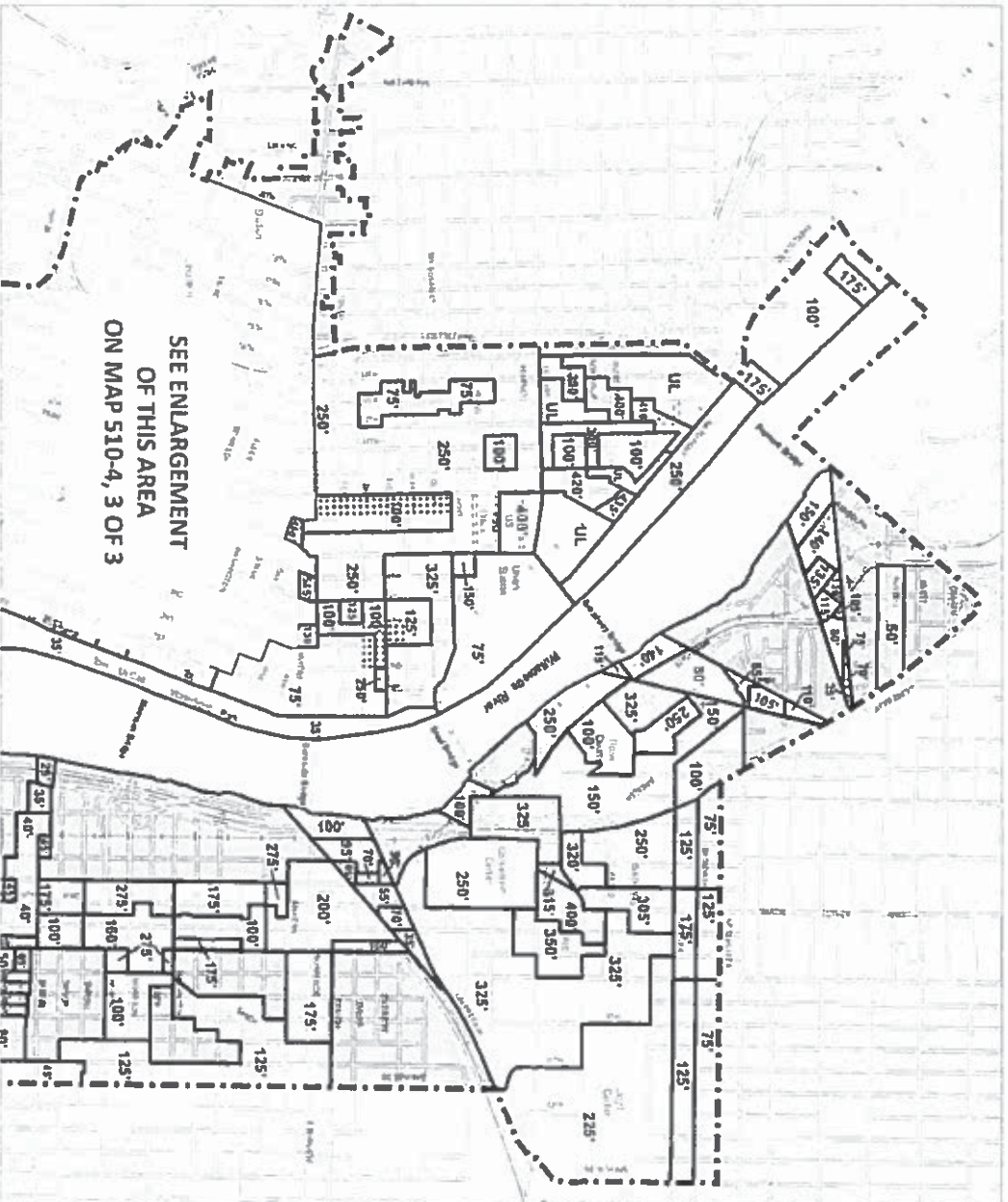
NW 13th HISTORIC DISTRICT - EXISTING BUILDING HEIGHTS (Approximate) ⊕

Proposed Bonus Heights

Map 510-4

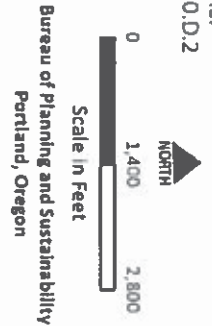
Map 1 of 3

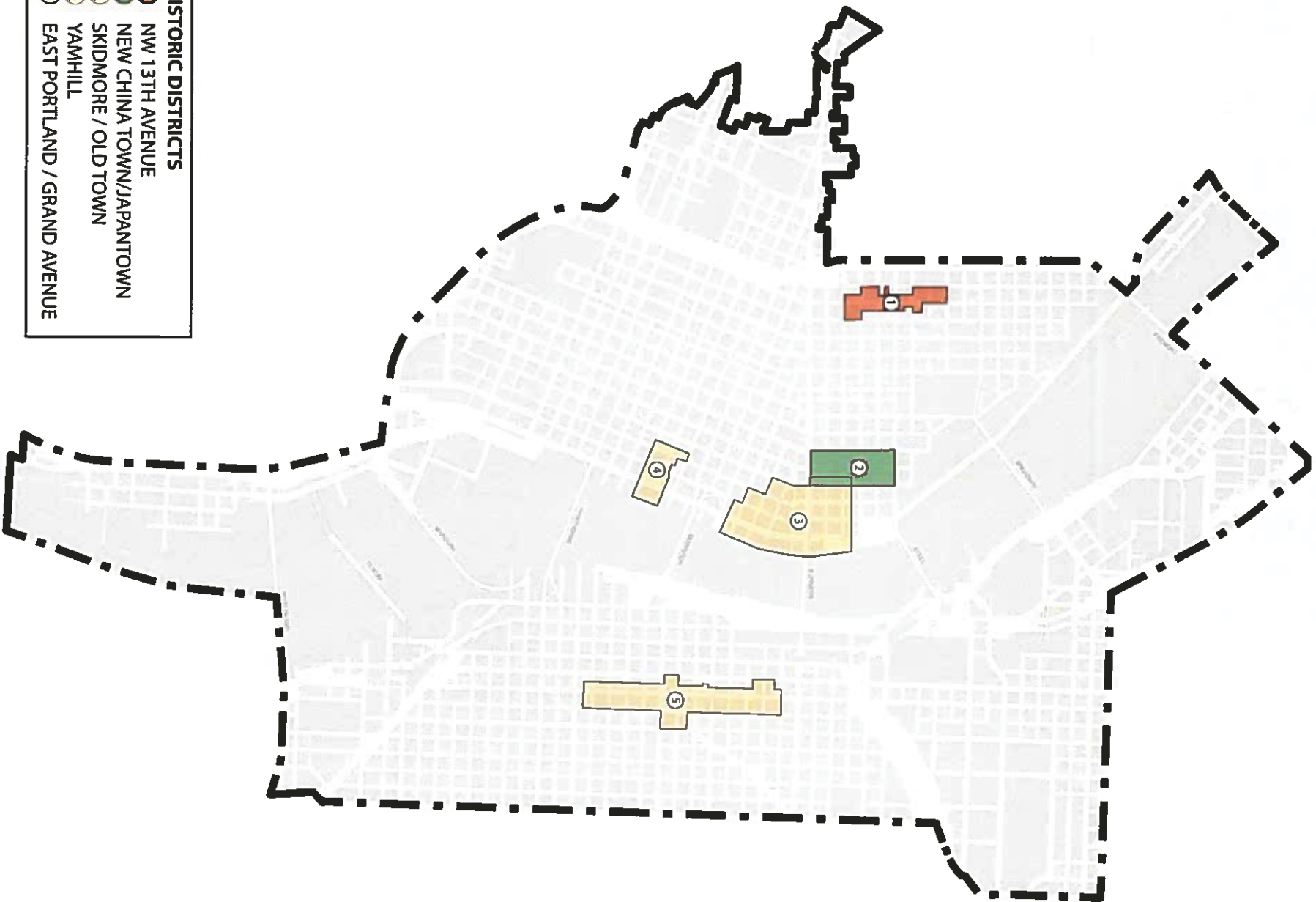
Map Revised Xxxxx XX, 201X



- Legend**
- Central City Plan District boundary
 - Maximum bonus height
 - Areas where height is determined by base zone
 - Proposed right-of-way
 - Proposed accessways

- Areas where a shadow analysis is required
- Unlimited height allowed
- Area eligible for additional height under 33.510.210.D.2





HISTORIC DISTRICTS

- ① NW 13TH AVENUE
- ② NEW CHINA TOWN/JAPANTOWN
- ③ SKIDMORE / OLD TOWN
- ④ YAMHILL
- ⑤ EAST PORTLAND / GRAND AVENUE