



# Portland City Auditor

## Hearings Office

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### RECOMMENDATION OF THE HEARINGS OFFICER

#### I. GENERAL INFORMATION

**File Number:** LU 16-186417 CP ZC  
(Hearings Office 4160026)

**Applicant:** Greg Winterowd  
Winterbrook Planning  
310 SW 4<sup>th</sup> Avenue #1100  
Portland, OR 97204

**Property Owner:** Run Our Dream LLC  
Attn.: Rob Brewster  
1157 Federal Avenue E  
Seattle, WA 98102-4314

**Architect:** Leslie Cliff  
Bora Architects  
720 SW Washington Street, Suite 800  
Portland, OR 97205

**Hearings Officer:** Joe Turner

**Bureau of Development Services (BDS) Staff Representative:** Mark Moffett

**Site Address:** 2815 SW Barbur Boulevard

**Legal Description:** BLOCK 74&75 TL 2300, CARUTHERS ADD

**Tax Account No.:** R140907550

**State ID No.:** 1S1E09AA 02300

**Quarter Section:** 3328

**Neighborhood:** South Portland Neighborhood Association (SPNA)

**Business District:** South Portland Business Association

**District Neighborhood Coalition:** Southwest Neighborhoods Inc.

**Existing Zoning:**       **CN2d** (Neighborhood Commercial 2 base zone with Design overlay zone),  
                                 **R1d** (Residential 1,000 base zone with Design overlay zone)

**Proposed Zoning:**     **CSd** (Storefront Commercial base zone with Design overlay zone)

**Land Use Review:**    Type III, CP ZC (Comprehensive Plan Map and Zoning Map Amendments)

**BDS Staff Recommendation to the Hearings Officer:** Approval with conditions

**Public Hearing:** The hearing was opened at 9:01 a.m. on February 2, 2017 in the 3<sup>rd</sup> floor hearing room, 1900 SW 4<sup>th</sup> Avenue, Portland, Oregon, and was closed at 10:09 a.m. The record was held open until 4:00 p.m. on February 16, 2017 to allow all parties an opportunity to submit new testimony and evidence regarding transportation and housing mitigation issues, until 4:00 p.m. on February 23, 2017 to allow all parties an opportunity to respond to the new testimony and evidence, and until 4:00 p.m. on March 2, 2017 to allow the applicant an opportunity to submit a final written argument. The record was closed to all testimony and/or written submissions at 4:01 p.m. on March 2, 2017.

**Testified at the Hearing:**

Mark Moffett  
Greg Winterowd  
Carl Springer  
Tommy Brooks  
Jim Gardner  
Rob Brewster  
Teresa Montalvo

**Proposal:** The applicant is in the process of converting the former Metro Family YMCA into office space. Recent Design Review procedures at the site have approved Phases I and II of the proposed site renovations, but the Phase II work, including a new upper floor for the building, requires a change in zoning. The floor area and height limits for the proposed Phase II work cannot be approved without an “up-zone” to the Storefront Commercial (CS) zone. The Phase II Design Review, recently approved by Design Commission (LU 16-185068 DZM), has a condition of approval that prevents the Phase II vertical expansion of the building from going forward prior to obtaining a zone change to CS on the site.

The proposal requires changes to both the Comprehensive Plan Map and Zoning Map Designations. The existing site has Neighborhood Commercial and Medium Density Multi-Dwelling Comprehensive Plan Map designations, with the corresponding CN2 (Neighborhood Commercial 2) and R1 (Residential 1,000) Zoning Map designations. The proposal would convert the entire site

to an Urban Commercial Comprehensive Plan Map designation, with a corresponding CS (Storefront Commercial) Zoning Map designation. The proposed designation will retain the Design overlay zone, and the property will remain within the Terwilliger Parkway Design District.

**Relevant Approval Criteria:** In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are:

- **33.810.050.A-B**, Approval Criteria for Comprehensive Plan Map Amendments; and
- **33.855.050.A-D**, Zoning Map Amendment Approval Criteria.

The above criteria also include, by reference, applicable portions of the *Portland Comprehensive Plan* (goals and policies), State Land Use Goals, and the *Metro Urban Growth Management Functional Plan* (titles).

## II. ANALYSIS

**Site and Vicinity:** This 74,590 square foot site has frontage on SW Barbur Boulevard at the intersection with SW Hooker Street. The site is directly south of Duniway Park, and is developed with a former YMCA health club, which was originally built in the 1970's. The site backs up to the steep slopes of the west hills just behind the building, which rise up west of the site towards Terwilliger Boulevard and the Oregon Health Sciences University. The site is presently under construction, as the former health club building is being converted into office space.

The surrounding area is primarily residential in character, with properties south of the site and west of Barbur including homes, apartment buildings, and smaller residential duplex and triplex structures. East of Barbur the neighborhood is also primarily housing, with some interspersed commercial, light industrial, and institutional uses. Lair Hill Park is located diagonally across the street from the site on the opposite leg of the intersection of SW Barbur and Hooker.

The City of Portland Transportation System Plan (TSP) designates SW Barbur Boulevard as a Regional Transitway and Major Transit Priority Street, City Bikeway, and City Walkway. Southwest Hooker Street is a Local Service street for all modes in the TSP.

**Existing Zoning:** The majority of the site is located in the Neighborhood Commercial 2 (CN2) zone. The CN2 zone is intended for small commercial sites and areas in or near less dense or developing residential neighborhoods. The emphasis of the zone is on uses which will provide services for the nearby residential areas, and on other uses which are small scale and have little impact. Development is expected to be predominantly auto accommodating, except where the site is adjacent to a transit street or in a Pedestrian District.

A small area of land in the southeast corner of the site is located in the Residential 1,000 (R1) zone. The R1 zone is a medium density multi-dwelling zone. Allowed housing is characterized by

one to four-story buildings and a higher percentage of building coverage than in the R2 zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses. Generally, R1 zoning will be applied near Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

The Design or “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural, or cultural value. At this site within the Terwilliger Parkway Design District, Design Review will be required for all future alterations at the site that are or will be visible from SW Terwilliger Boulevard.

**Proposed Zoning:** The Storefront Commercial (CS) zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone allows a full range of retail, service, and business uses with a local and regional market area. Office uses are allowed by right along with retail, and some smaller industrial uses are also allowed. The primary distinction in this case between the prior CN2 zone and the proposed CS zone is the additional height and floor area allowed in CS: the height limit increases from 30 feet to 45 feet, and the maximum floor area ratio (FAR) increases from 0.75:1 to 3:1 – an increase of 2.25:1 in FAR.

The Design overlay zone will remain in place at the site under the proposed designations.

**Land Use History:** City records indicate that prior land use reviews include:

*CU 087-75:* Conditional use approval for the Metro Family YMCA;

*DZ 29-75:* Design review approval for the Metro Family YMCA;

*VZ 223-75:* Variance approval to reduce the east front yard from the required 10 feet to 2 feet;

*CU 052-82:* Conditional use approval for a sign;

*LU 04-044850 DZ:* Design review approval for a new arch-shaped, translucent fiberglass-reinforced panel roof system;

*IQ 15-171319 ZE:* Zoning Map Error request: change R1d to CN2d; no action yet taken;

*LU 15-205150 DZM:* Design review and modification approval for exterior alterations and renovations to the existing building, involving conversion of the health club to office space; and

*LU 16-185068 DZM:* Design review and modifications for vertical expansion of previously-approved office conversion project with a new upper floor. Decision of conditional approval was mailed in mid-December 2016. Condition of approval B from this decision requires that the zone change pending in this application be approved, prior to development of the additional height and floor area as proposed.

**Agency Review:** A “Request for Response” was mailed December 23, 2016. The following bureaus have responded:

The Bureau of Environmental Services (BES) has reviewed the proposal and voiced no objection to approval of both the Comprehensive Plan and Zoning Map Amendments in this application. Public services are available to serve the use and site-specific sanitary waste and stormwater disposal issues have been addressed through the recent Design Review and building permit procedures. Exhibit E.1 contains staff contact and additional information.

The Development Review Section of Portland Transportation (PBOT) reviewed the proposal and responded with detailed comments on the relevant approval criteria. At the time the Staff Report was issued, PBOT was unable to support a recommendation of approval for either request. However, after review of the applicant's revised transportation analysis (Exhibit H-13a), PBOT recommended approval of the application based on the revised findings in Exhibit H-14.

The Water Bureau has reviewed the proposal and responded without objections, comments, or concerns (Exhibit E.3).

The Fire Bureau has reviewed the proposal and responded with support for the requested Comprehensive Plan and Zoning Map Amendments. Optional comments are made regarding building permits for development on the site, but these are not relevant to the current application (Exhibit H-8).

The Police Bureau has reviewed the proposal and responded with support for the requested Comprehensive Plan and Zoning Map Amendments. Optional comments are made regarding address signage and maintenance of landscaping, but these do not conflict with the overall recommendation for approval. Exhibit E.5 contains staff contact and additional information.

The Life Safety Section of BDS has reviewed the proposal and responded that there appears to be no conflict between the proposal and applicable building codes. Building permits will be required for the remodel project and other site alterations in the future. Exhibit E.6 contains staff contact and additional information.

The Site Development Section of BDS has reviewed the proposal and responded without comment or concern (Exhibit E.7).

The Urban Forestry Division of Portland Parks and Recreation has reviewed the proposal and responded with no concerns, noting that street tree and other forestry issues were covered during the two recent Design Review applications (Exhibit E.8).

**Neighborhood Review:** A Notice of a Public Hearing on a Proposal in Your Neighborhood was mailed on January 10, 2017. At the time the staff report was prepared, no written responses had been received from either the Neighborhood Association or notified property owners in response to the proposal. Mr. Gardner testified at the hearing that the South Portland Neighborhood Association unanimously supports the application.

## ZONING CODE APPROVAL CRITERIA

### 33.810.050 Approval Criteria (Comprehensive Plan Map Amendments)

**A. Quasi-Judicial.** Amendments to the Comprehensive Plan Map which are quasi-judicial will be approved if the review body finds that the applicant has shown that all of the following criteria are met:

1. The requested designation for the site has been evaluated against relevant Comprehensive Plan policies and on balance has been found to be equally or more supportive of the Comprehensive Plan as a whole than the old designation;

**Findings:** The following analysis includes an assessment of the Comprehensive Plan goals, policies and objectives relevant to this proposal. Based on the findings and analysis below, this criterion is met.

#### Comprehensive Plan Goals and Policies

**Goal 1 Metropolitan Coordination:** *This goal seeks to ensure that the Comprehensive Plan is coordinated with federal and state law, and supports goals, objectives, and plans adopted by the Metropolitan Service District.*

**Findings:** The *Urban Growth Management Functional Plan* was approved November 21, 1996, by the Metro Council and became effective February 19, 1997. The purpose of the plan is to implement the Regional Urban Growth Goals and Objectives (RUGGO), including the 2040 Growth Concept. Local jurisdictions must address the Functional Plan when Comprehensive Plan Map Amendments are proposed through the quasi-judicial or legislative processes. The *Urban Growth Management Functional Plan* is Section 3.07 of the Metro Code.

The City of Portland's Comprehensive Plan and the implementing Zoning regulations of PCC Title 33 are either in compliance with, or are not inconsistent with, the applicable Metro Titles. The proposal is consistent with the Metro Titles that are applicable.

The 14 Metro Titles in that section are summarized and addressed below.

#### **Urban Growth Management Functional Plan**

**Title 1 Housing Capacity.** This title calls for compact urban form and a "fair-share" approach to meeting the regional housing needs. It is accomplished by requiring each city and county to maintain or increase its housing capacity. This requirement is

generally implemented through city-wide analysis based on calculated capacities from land use designations.

**Findings:** The requested amendment changes the housing capacity of the site. The existing Comprehensive Plan designation of Medium Density Multi-Dwelling and implementing zone of Residential 1,000 (R1) allows a maximum of two dwelling units on the small R1-zoned area at the southeast corner of this site. The existing Comprehensive Plan designation of Neighborhood Commercial and enabling zone of Neighborhood Commercial 2 (CN2) also allows housing uses by right. To address the issue of lost housing capacity, as required by criterion 33.810.050.A.(3).a-b, a condition of approval will be imposed guaranteeing mitigation for the lost housing potential in the R1 zone. In this way, the proposal will remain consistent with the existing Comprehensive Plan analysis and preservation of housing capacity, as evaluated prior to adoption of the current Comprehensive Plan. Although the site is expected to stay in an office use for the foreseeable future, mitigating for the two dwelling units which will no longer be required ensures that the City of Portland maintains its planned housing capacity.

**Title 2    Regional Parking Policy.** This title was repealed and transferred to the Regional Transportation Functional Plan.

**Title 3    Water Quality and Flood Management.** This title protects the beneficial water uses, functions, and values of resources by limiting or mitigating the impact of development activities on these areas.

**Findings:** Compliance with Title 2 is not necessary, as the title was repealed. Compliance with Title 3 is achieved through the review of development against the current City of Portland Stormwater Management Manual regulations at time of building permit. The Bureau of Environmental Services has responded to water quality and flood management issues in their response to this application, which recommends approval of the request (Exhibit E.1). This information is addressed in further detail below under Approval Criteria for Base Zone Changes for the Zoning Map Amendment.

**Title 4    Industrial and Other Employment Areas.** This title seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas. The title also seeks to provide the benefits of “clustering” to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. It further seeks to protect the capacity and efficiency of the region’s transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, Corridors, Main Streets and Station Communities.

**Findings:** The site is not located in a Regionally Significant Industrial Area. It also is not “clustered” around other industries. With exclusively commercial and residential designations at the site, this title is not applicable.

**Title 5 Neighbor Cities and Rural Reserves.** This title defines Metro policy with regard to areas outside the Metro urban growth boundary.

**Findings:** The proposal is within the urban growth boundary and has no impact on neighboring cities or rural reserves; therefore, this title is not applicable.

**Title 6 Centers, Corridors, Station Communities and Main Streets.** The Regional Framework Plan identifies Centers, Corridors, Main Streets and Station Communities throughout the region and recognizes them as the principle centers of urban life in the region. This title calls for actions and investments by cities and counties, complemented by regional investments, to enhance this role. A regional investment is an investment in a new high-capacity transit line or designated a regional investment in a grant or funding program administered by Metro or subject to Metro’s approval.

**Findings:** The site is just outside the southern boundary of the Regional Center, known in Title 33 terms as the Central City Plan District. The site is not adjacent to a designated Main Street or Station Community. Southwest Barbur Boulevard is a designated Corridor connecting downtown Portland with Tigard and Tualatin areas to the southwest. The proposal has no impact on future planning for high-speed transit along the Barbur Boulevard/Oregon Highway 99 West corridor. The proposal does not preclude future bicycle and pedestrian improvements along this corridor which may result as a part of any future regional investment in a new high-capacity transit line. Therefore, there are no impacts in the proposal with regards to this Title.

**Title 7 Housing Choice.** This title calls for the establishment of voluntary affordable housing production goals to be adopted by local governments and assistance from local governments on reports on progress toward increasing the supply of affordable housing.

**Findings:** There are no impacts with regards to the affordability level of housing in this proposal. The two potential housing units in the R1 zone which will be lost will require separate mitigation via a condition of approval addressing Comprehensive Plan Map approval criterion 33.810.050.A.3.a-b. City of Portland legislative efforts that will require larger projects city-wide to include some affordable housing took effect on February 1, 2017, after this application was filed, and therefore do not apply to this application. There are no impacts in the current proposal with regards to this Title seeking voluntary affordable housing production goals, which are nevertheless being reinforced through a separate project.



**Title 8 Compliance Procedures.** This title outlines compliance procedures for amendments to comprehensive plans and implementing ordinances.

**Findings:** This proposal meets this title by fulfilling the notice requirements for Type III land use reviews, as outlined in Portland Zoning Code, Chapter 33.730, Quasi-Judicial Procedures. In addition to notifying the affected neighborhood associations and property owners within a 400-foot radius of the site, a Notice of Proposal has also been sent to Metro and to the Department of Land Conservation and Development. The applicant has also voluntarily met with interested neighbors and the neighborhood association (see Exhibit A.1, pages 12-13).

**Title 9 Performance Measures.** Title 9 was repealed.

**Title 10 Definitions.** This title defines the words and terms used in the *Urban Growth Management Functional Plan*.

**Title 11 Planning for New Urban Areas.** This title guides planning for areas brought into the Urban Growth Boundary for conversion from rural to urban use.

**Findings:** The requested proposal has no impact on, and is not inconsistent with, Titles 9, 10, and 11. The site is already within the Urban Growth Boundary.

**Title 12 Protection of Residential Neighborhoods.** The purpose of this title is to protect the region's existing residential neighborhoods from air and water pollution, noise and crime and to provide adequate levels of service.

**Findings:** The site has been developed as a community-focused health club since the 1970's, and will continue to be under a primarily commercial designation. Removal of the small fragment of residential zoning on the southeast corner of the site will not eliminate any existing housing, or change the characteristics, pollution levels, noise, or crime in the surrounding residential neighborhoods. Issues with regards to mitigating for the lost housing potential at the site are addressed separately under criterion 33.810.050.A.3, later in this document. There are no impacts with regards to this Title.

**Title 13 Nature in Neighborhoods.** The purpose of this title is to conserve, protect and restore a continuous ecologically viable streamside corridor system that is integrated with upland wildlife habitat and the surrounding urban landscape.

**Findings:** The site is not designated with either Environmental Conservation or Environmental Protection overlay zones and therefore has not been identified as having any particular resource value. There are no streams on or abutting the site. There are no impacts with regards to this title.

**Title 14 Urban Growth Boundary.** This title prescribes criteria and procedures for amendments to the urban growth boundary.

**Findings:** This site is already located within the Urban Growth Boundary.

**Goal 2 Urban Development:** *This goal calls for the maintenance of the City's role as a regional employment, population, and cultural center through public policies that encourage expanded opportunity for housing and jobs, while retaining the character of established residential neighborhoods and business centers.*

**Findings:** The proposal is consistent with the following applicable policies: Policy 2.1, *Population Growth*, Policy 2.9, *Residential Neighborhoods*, Policy 2.11, *Commercial Centers*, Policy 2.12, *Transit Corridors*, Policy 2.13, *Auto-Oriented Commercial Development*, Policy 2.23, *Buffering*, and Policy 2.24, *Terwilliger Parkway Corridor Plan*.

Because of the proposal's consistency with these Policies, the proposal, on balance, is supportive of Goal 2, **Urban Development** of the Comprehensive Plan. A detailed analysis of the applicable policies follows, below.

**Policy 2.1 Population Growth.** Allow for population growth within the existing city boundary by providing land use opportunities that will accommodate the projected increases in city households by the year 2000.

**Findings:** The requested Comprehensive Plan Map and Zoning Map amendment will reduce housing potential at the site by two units, but that loss will be fully mitigated for by a condition of approval. With the mitigation as required by the Comprehensive Plan Map amendment approval criteria and associated condition, there are no impacts with regards to this policy.

**Policy 2.9 Residential Neighborhoods.** *Allow for a range of housing types to accommodate increased population growth while improving and protecting the city's residential neighborhoods.*

**Findings:** The two housing units required by the existing R1 zoning at the southeast corner of the site will be mitigated for via a condition of approval ensuring their replacement elsewhere inside the city limits. The units are likely to be multi-dwelling units, similar to the duplex which would be allowed on the site today. There are no impacts with regards to this policy.

**Policy 2.11 Commercial Centers.** *Expand the role of established commercial centers which are well served by transit. Strengthen these centers with retail, office, service*

*and labor-intensive industrial activities which are compatible with the surrounding area. Encourage the retention of existing medium and high density apartment zoning adjacent to these centers.*

**Findings:** The site is near an established hub of office buildings built in the middle of the twentieth century, mostly contained inside the South Auditorium Plan District, all of which have excellent access to several modes of transit. Establishment of an office complex at this site, or other uses allowed by the proposed CS zoning, will complement and strengthen the character of this established commercial center, and there is significant nearby medium and high density apartment zoning near the site, both immediately to the south and east of the site, as well as just north of Duniway Park which abuts the site to the north. The proposal is supportive of this policy.

**Policy 2.12 Transit Corridors.** *Provide a mixture of activities along major transit routes (including) Major Transit Priority Streets, Transit Access Streets, and Main Streets to support the use of transit. Encourage development of commercial uses and allow labor-intensive industrial activities which are compatible with the surrounding area. Increase residential densities on residentially-zoned lands within one-quarter mile of existing and planned transit routes to transit-supportive levels. Require development along transit routes to relate to the transit line and pedestrians and to provide on-site pedestrian connections.*

**Findings:** Southwest Barbur Boulevard is both a Regional Transitway and Major Transit Priority Street in the TSP. The proposal to change a former health club into an office building at the site is supportive of ensuring a mixture of activities along this major transit route. The mixture of commercial uses allowed under the proposed designation is also supportive of this policy. Both the prior and recently reconfigured building at the site provide a generous pedestrian entry sequence from the main entrance doors and the sidewalk along Barbur Boulevard. A transit stop serving several bus lines is immediately outside the main entry of the building, at the bottom of the entry stairs. The proposal is supportive of this policy.

**Policy 2.13 Auto-Oriented Commercial Development.** *Allow auto-oriented commercial development to locate on streets designated as Major City Traffic Streets by the Transportation Element. Also allow neighborhood level auto-oriented commercial development to locate on District Collector Streets or Neighborhood Collector Streets near neighborhood areas where allowed densities will not support development oriented to transit or pedestrians. Where neighborhood commercial uses are located on designated transit streets, support pedestrian movement and the use of transit by locating buildings and their entrances conveniently to transit users, pedestrians, and bicyclists and provide on-site pedestrian circulation to adjacent streets and development.*

**Findings:** Southwest Barbur Boulevard is classified as a Major City Traffic Street in the TSP. Both the prior health club and reconfigured office building have significant vehicle parking, located in a single-level parking structure immediately underneath the building. With a two-way driveway to the garage immediately adjacent to the main pedestrian entrance to the building, and with more than one quarter of the overall floor area of the building dedicated to vehicle parking, the use could be described as auto-oriented. The building itself is conveniently oriented to pedestrians and bicyclists accessing the site from SW Barbur Boulevard or SW Hooker Street. The proposal, and other development or uses allowed under the proposed designation, are consistent with this policy with regards to pedestrian and bicycle access from the transit street, as well as with the preference for such facilities to be located on Major City Traffic Streets.

**Policy 2.23 Buffering.** *When residential zoned lands are changed to commercial, employment or industrial zones, ensure that impacts from nonresidential uses on residential areas are mitigated through the use of buffering and access limitations. Where R-zoned lands have a C, E, or I designation, and the designation includes a future Buffer overlay zone, zone changes will be granted only for the purpose of expanding the site of an abutting nonresidential use.*

**Findings:** A small section of the site, approximately 2,500 square feet in size, will change from residential to commercial under the current proposal. This portion of the site has and will be developed with landscaping and vehicular access paving, but no building area has or is likely to exist on the residentially-zoned portion of the site, unless the site is completely redeveloped in the future. Because the existing buffering created by landscaping and distance will remain in place, and with a natural barrier created by the right-of-way in SW Hooker Street and the adjacent housing along SW Barbur and 4<sup>th</sup> Avenue immediately to the south, the proposal is consistent with this policy.

**Policy 2.24 Terwilliger Parkway Corridor Plan.** *Preserve and enhance the scenic character of the Terwilliger Parkway. Terwilliger Boulevard and Terwilliger Trail by implementing the Terwilliger Parkway Corridor Plan and the Terwilliger Parkway Design Review Guidelines.*

**Findings:** The provisions of the Terwilliger Parkway Corridor Plan are implemented at the site through the application of the Design overlay zone. Two recent Design Review applications at the site looked at potential impacts of the building remodel project currently underway on the scenic character of the Terwilliger Parkway and Trail, including use of appropriate dark coloration and vegetated eco-roof elements that help the building blend into the background of trees and Duniway Park against which it is placed. The building alterations at the site are not under consideration in this

Comprehensive Plan amendment, and the Design overlay zone requirements will remain in place at the site. With regards to the Comprehensive Plan Map change, there is no impact on this policy.

**Goal 3 Neighborhoods:** *This goal seeks to preserve and reinforce the stability and diversity of the City's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses. The goal also seeks to ensure the City's residential quality and economic vitality.*

**Findings:** The proposal is consistent with Policy 3.5, Neighborhood Involvement. The applicant has engaged the SPNA in many discussions concerning the redevelopment and reuse of the site for an office building, as well as with the proposed Comprehensive Plan Map and Zoning Map amendments. The original proposal to seek Central Commercial (CX) zoning was withdrawn by the applicant and modified to Storefront Commercial (CS), largely in response to this suggestion being made by the SPNA, in order to limit the scale of future redevelopment potential at the site, specifically with regards to the lower height limit allowed at the site (45 versus 75 feet maximum height). The SPNA land use committee voted unanimously to support this application.

The proposal is also consistent with Policy 3.6, Neighborhood Plan. There are two applicable plans adopted by City Council for this site under consideration with this policy. The Corbett, Terwilliger and Lair Hill Policy Plan (1977) and the Southwest Community Plan (2000) both apply. The proposal, as conditioned, is consistent with the first of these two plans because it does not remove any existing housing units, but the remainder of the plan focused on the Johns Landing and Macadam areas, as well as public pedestrian and bicycle improvements which are in public rights-of-way and not relevant to this proposal on private property. The proposal is consistent with land use policies of the Southwest Community Plan by providing new employment opportunities in the area. Upgrading the adjacent sidewalks and improving landscaping on the site with the building remodel, while not directly associated with the Comprehensive Plan Map changes, is also consistent with the urban form policy of the Southwest Community Plan. Overall, the proposal is supportive of this policy by expanding potential employment and economic development opportunities in the neighborhood, while respecting the mix of uses and vitality of the former health club on the site.

**Goal 4 Housing:** *This goal seeks to further Portland as the center of the region's housing market by providing housing of different types, tenures, densities, sizes, costs and locations.*

**Findings:** The proposal is consistent with Policy 4.2, Maintain Housing Potential. As required by Comprehensive Plan Map Amendment approval criterion 33.810.050.A.3, the two potential housing units on the R1-zoned portion of the site will be mitigated for by providing for those housing units elsewhere via a condition of approval. There is significant redevelopment happening throughout the City of Portland at the present time, with literally thousands of new dwelling units being constructed each year, many of them in Commercial and Employment zones. By mitigating for the potential lost housing units, while not removing any existing housing on the site, the proposal is consistent with this policy.

**Goal 5 Economic Development:** *This goal seeks to foster a strong and diverse economy that provides a full range of employment and economic choices.*

**Findings:** The proposal is consistent with Policies 5.1 Urban Development and Revitalization, 5.2 Business Development, and 5.7 Business Environment within Designated Commercial Areas. By allowing an expansion of the floor area allowed on the site, the proposal to “up-zone” the Comprehensive Plan Map designation from Neighborhood Commercial to Urban Commercial will support reinvestment and new jobs at the site, expanding economic development in the city. The proposal is supportive of the overall goal and noted policies.

**Goal 6 Transportation:** *This goal seeks to provide for and protect the public’s interest and investment in the public right-of-way and transportation system by encouraging the development of a balanced, affordable and efficient transportation system consistent with the Arterial Streets Classifications and Policies.*

**Findings:** The Portland Bureau of Transportation has reviewed the proposal for its potential impacts regarding the public right-of-way, traffic impacts, and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services. Based on review of the applicant’s Final TIS (Exhibit H-13a), “PBOT has no objections to the proposed Comprehensive Plan Amendment and Zone Map Amendment subject to ... conditions” (Exhibit H-14).

#### **COMPREHENSIVE PLAN AMENDMENT (33.810.050.A.1)**

In relation to the requested Comprehensive Plan Amendment, the applicant provided a narrative, prepared by Winterbrook Planning, to address conformance of the proposed Amendment with the Transportation Goals and Policies (Goal 6, Policies 6.1 through 6.33 and 6.41) of the Comprehensive Plan.

**Policy 6.1 – Coordination** – This policy involves coordinating transportation planning among various public agencies and is not applicable to the subject site/request.

Policy 6.2 – Public Involvement - This policy is addressed by the City's established land use review process that requires public notification and comment periods. *This policy is met.*

Policy 6.3 – Transportation Education – This policy is not applicable to the subject site/request.

Policies 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, and 6.11 Street Classifications -

The City's *Transportation System Plan* (TSP) classifies SW Barbur Blvd as a Major City Traffic Street; a Regional Transitway/Major Transit Priority; a City Bikeway; a Major Truck Route, a Major Emergency Response Route, and a Regional Corridor. SW Hooker Street is classified as a Local Service Street for all modes. The site is also located within the Lair Hill Pedestrian District.

- *Major City Traffic Streets* are intended to serve as the principal routes for traffic that has at least one trip end within a transportation district.
- *Local Service Traffic Streets* are intended to distribute local traffic and provide access to local residences or commercial uses.
- *Regional Transitways* are intended to provide for interregional and interdistrict transit trips with frequent, high-speed, high-capacity, express, or limited service, and to connect the Central City with all regional centers.
- *City Bikeways* are intended to serve the Central City, regional and town centers, station communities, and other employment, commercial, institutional, and recreational destinations.
- *Pedestrian Districts* are intended to give priority to pedestrian access in areas where high levels of pedestrian activity exist or are planned, including the Central City, Gateway regional center, town centers, and station communities.
- *Major Truck Streets* are intended to serve as principal routes for trucks in a Transportation District.
- *Major Emergency Response Streets* are intended to serve primarily the longer, most direct legs of emergency response trips.
- *Regional Corridors* are designed to include special amenities to balance motor vehicle traffic with public transportation, bicycle travel, and pedestrian travel.

The proposed change is supportive of, and will not negatively impact, the street classifications of the Transportation Element of the Comprehensive Plan. *This policy is met.*

Policy 6.12 Regional and City Travel Patterns – The site has direct access to SW Barbur Boulevard, a Major City Traffic Street, and is adjacent to two major regional routes, Interstate 405 and US 26. A number of Local Service Streets in the area provide access to these identified arterials. The proposed amendment is supportive of intended

travel patterns and will not negatively impact the planned function of the street system in the area. *This policy is met.*

Policy 6.13 Traffic Calming – The TIS includes an evaluation of five years of collision records obtained from ODOT’s Crash Analysis and Reporting Unit. Based upon the collision data, no significant safety concerns were identified in the vicinity. The site enjoys direct access to arterial roadways. As such, the proposed development is not expected to significantly increase traffic impacts on Local Service Streets to unacceptable levels. Traffic calming is not warranted. *This policy is met.*

Policy 6.14 – Emergency Response, 6.15 Transportation System Management – These policies are not applicable to the site.

Policy 6.16 Access Management - There are no expected access restrictions required for this site. Direct access to arterials is provided as noted above in the discussion of Policy 6.12. *This policy is met.*

Policy 6.17 – Coordinate Land Use and Transportation – This policy is not applicable to the site.

Policy 6.18 Adequacy of Transportation Facilities – The following findings are taken directly from PBOT’s open record findings, Exhibit H-14:

“Per Administrative Rule 10.27 ‘*Traffic Capacity Analysis for Land Use Review Cases*’, acceptable level-of-service and performance standards for intersections under City of Portland authority are LOS D for signalized intersections and LOS E for stop-controlled intersections. An amendment or other land use application that requires analysis of traffic capacity and allows development that may cause a transportation facility to perform below acceptable levels of service, or add vehicle trips to a facility that is already performing below performance standards, may be approved if **the development is limited to result in no net increase in vehicle trips over what is allowed by the existing zoning.**

To evaluate the potential impacts of the proposed Comprehensive Plan Amendment and Zone Change, the applicant compared the reasonable worst-case scenario for the existing CN and R1 zoning to the reasonable worst-case scenario under the proposed CS zone. As demonstrated by the applicant’s TIS, the proposed change to the CS zone has the potential to add significantly more vehicle trips than is currently allowed under the existing zoning. To address this potential



for greater vehicle trips and to comply with TRN 10.27, the applicant proposed to implement a trip cap which will limit trip generation for all future development under the CS zone to that which is allowed under the reasonable worst-case under the existing CN and R1 zoning of the site.

The Table below represents square footage limitations for land uses, permitted under the CS zone, that equate to a maximum of **401 AM peak hour trips** which is consistent with the reasonable worst-case scenario under the existing zoning of the property. With this Trip Cap Table included as a condition of approval, PBOT can conclude that the applicant has addressed the relevant policies and approval criteria associated with demonstrating adequacy of transportation facilities. (Policy 6.18 and Section 33.855.050.B.2 of the Portland Zoning Code). The applicant shall be responsible for providing an accounting of all square footages for each proposed land use, as well as existing uses, and the conversion to vehicle trips for each building permit application.

Table 1: Land Use and Trip Rate Allocations<sup>1</sup> - Maximum 401 AM Peak Hour Trips

Zoning Land Use Category (ITE Land Use Category)	Building Square Footage (GLA)/Other	AM Peak Hour Trip Rate <sup>2</sup>
Office (Medical/Dental Office, ITE 720)	1,000 square feet	2.39
Retail Sales and Service (High-Turnover Sit-Down Restaurant, ITE 932)	1,000 square feet	10.81
Household Living (Apartment, ITE 220)	1 dwelling unit	0.51
Vehicle Repair (Automobile Care Center, ITE 942)	1,000 square feet	2.25
Industrial Use Categories (Manufacturing, ITE 140)	1,000 square feet	0.73
Institutional Use Categories (Day Care, ITE 565)	1,000 square feet	12.18

<sup>1</sup> The building square footage or dwelling units shall be converted to trips and compared to the maximum established. The above referenced trip rates for these land use categories shall not be altered

<sup>2</sup> All trip rates in this table are based on the Institute of Transportation Engineers Trip Generation Manual, 9<sup>th</sup> Edition, rates for reasonable worst case uses as shown in the Land Use column for the AM peak hour

### Signal Warrants and Driveway Operations

As noted in PBOT's January 20, 2017 land use response, additional information was necessary to demonstrate that the proposed

driveway on SW Barbur Boulevard would continue to operate effectively and to complete a signal warrant analysis for the SW Barbur/SW Hooker intersection in the event that the driveway was relocated to SW Hooker.

The final TIS adequately demonstrates that there are sufficient gaps in vehicle traffic, during the PM peak hour, to allow left turns onto Barbur Boulevard from the parking garage. Accordingly, PBOT has no objection to retaining full access at the existing driveway at this time. However, the applicant is cautioned that, consistent with Title 17.28.110, PBOT may establish conditions deemed necessary to insure safe and orderly flow of pedestrian and vehicle traffic at any time. Accordingly, left-turns onto SW Barbur may be prohibited in the future to address safety or operational concerns as determined by PBOT. Based upon the preliminary signal warrant analysis provided in the TIS, a full traffic signal may be an option at the SW Hooker/SW Barbur intersection if the driveway were relocated to SW Hooker. This may be an option to continue to allow left-turns out of the site in the event that the SW Barbur driveway becomes restricted in the future.

**RECOMMENDATION:**

PBOT has no objections to the proposed Comprehensive Plan Amendment and Zone Map Amendment subject to ... conditions.”

Based on PBOT’s revised findings, *this policy is met*.

Policy 6.19 Transit Oriented Development – The proposed amendment will support increased employment densities along SW Barbur, a Major Transit Priority Street, and the public improvements required in relation to the proposed renovation of the existing building, including provision of a 15-foot wide pedestrian corridor along the site’s frontage as well as reconstruction of the corner of SW Barbur & SW Hooker, will improve pedestrian connections to area transit facilities. *This policy is met*.

Policy 6.20 Connectivity – The site is located at the intersection of two public streets. Pedestrian and bicycle connectivity to/from the site to area transit facilities is provided via a fully improved pedestrian corridor abutting the site as well as a bike lane within SW Barbur Boulevard. Accordingly, no further opportunities for connectivity were identified at this location. *This policy is met*.

Policy 6.21 Right-of-Way Opportunities - This policy is not applicable to the site.

Policy 6.22 and 6.23 Pedestrian and Bicycle – As noted in the response to Policy 6.19, the required public improvements will contribute to a more complete pedestrian network and improve the overall pedestrian experience. There are buffered bike lanes on SW Barbur adjacent to the subject site and bike lanes are present on many of the key roadways in the vicinity. *These policies are met.*

Policy 6.24 Public Transportation – This Policy applies to infrastructure planning and is not applicable to the site.

Policy 6.25, 6.26 and 6.27 Parking and Demand Management – As discussed herein and in the applicant's TIS, the site is in close proximity to frequent service transit facilities. Additionally, there are existing pedestrian and bicycle facilities that link the site to said transit facilities and residential/commercial development in the vicinity. Redevelopment of the site will also be subject to the provision of on-site bicycle parking as required by the Portland Zoning Code. The existing conditions in the vicinity, as well as on-site, will further the intent of these policies which seek to reduce vehicle trips, improve air quality, and allow for the effective management of on-street parking. *These policies are met.*

Policy 6.28 Travel Management - No aggressive travel demand management measures are needed. The site is in proximity to extensive pedestrian, bicycle, and transit systems. *This policy is met.*

Policy 6.29 & 6.30 Multimodal Freight Systems/Truck Movement - These policies are not applicable to the site.

Policies 6.31, 6.32, 6.33, and 6.37 – Regional Transportation Policies – These policies are more related to overall City transportation planning and are not applicable to the site.

Policy 6.41- Southwest Transportation District – In relation to the applicable policy objective "D" which states, "*Evaluate the transportation impacts on adjacent neighborhoods when considering increases in development potential of large new or redeveloping areas, and include mitigation measures in development plans*", the applicant is proposing to mitigate impacts upon the adjacent neighborhoods by limiting potential vehicle trip generation as a result of this amendment to that which is permitted under the existing zoning designation of the site. As additional explanation, the proposed **Comprehensive Plan Amendment** from Medium-Density Multi-Dwelling and Neighborhood Commercial to Urban Commercial (with concurrent **Zoning Map Amendment** from R1d and CN2d to CS), could allow for a greater intensity of use on the subject site, including but not limited to more building floor area and added height. The additional building area could therefore potentially allow

for an increase in building occupancy, which could theoretically result in greater vehicle trip generation. The applicant is proposing a trip cap to maintain the same number of vehicle trips that would be associated with a development proposal under the site's current Comprehensive Plan and Zone Map designations. Based on PBOT's revised findings in Exhibit H-14, *this policy is met.*

**Goal 7 Energy:** *This goal seeks to promote a sustainable energy future by increasing energy efficiency throughout the City by 10 percent by the year 2000.*

**Findings:** The proposed Comprehensive Plan Map amendment has no consequences related to energy use at this site. The proposed building remodel may increase the energy-efficiency of the structure, but site-specific changes are not under consideration in this land use review. There are no impacts with regards to this policy.

**Goal 8 Environment:** *This policy seeks to maintain and improve the quality of Portland's air, water and land resources, and protect neighborhoods from detrimental noise pollution.*

**Findings:** The proposal has no impact on any air, water, or land resources on the site, nor are there any designated environmental resources such as wetlands or water bodies at the site. Existing City regulations with regards to noise and radiofrequency emissions will continue to apply at the site regardless of the outcome of this application. This goal is not applicable to the proposal.

**Goal 9 Citizen Involvement:** *This policy seeks to improve the method for citizen involvement in the on-going land use decision-making process, and providing opportunities for citizen involvement in the implementation, review and amendment of the adopted Comprehensive Plan.*

**Findings:** While this goal speaks primarily to citizen involvement in legislative updates to the Comprehensive Plan, the applicant has worked closely with the SPNA on the overall project and adjusted their proposal in response to neighbor concerns. Standard notification requirements for this Type III land use review process were also followed, including notification of nearby neighbors, organizations and City agencies. Overall, the proposal is consistent with and supportive of Policy 9.1, Citizen Involvement Coordination and Policy 9.3, Comprehensive Plan Map Amendment.

**Goal 10 Plan Review and Administration:** *This policy calls for periodic reviews of the Comprehensive Plan to ensure that it remains an up to date and workable framework for land use development.*

**Findings:** Portland's Comprehensive Plan has recently been updated, and is in the process of being evaluated for compliance with Statewide Planning Goals and other regulatory requirements by the State of Oregon Department of Land Conservation and Development. The current quasi-judicial proposal is consistent with Policy 10.6, Corresponding Zones and Less Intense Zones, because the proposed Storefront Commercial (CS) zone corresponds to the Urban Commercial Comprehensive Plan Map designation. The current proposal is also consistent with Policy 10.7, Amendments to the Comprehensive Plan Map, by virtue of the analysis against the approval criteria of which this finding is a part. Following the required quasi-judicial Comprehensive Plan Map amendment process to a corresponding (CS) zone for the Urban Commercial designation also is supportive of Policies 10.8, Zone Changes and 10.9, Land Use Approval Criteria and Decisions. To the extent that it applies to quasi-judicial applications, the proposal is supportive of this goal and the noted policies.

**Goal 11 Public Facilities:** *This goal seeks to provide a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities.*

**Findings:** The vast majority of policies and objectives under this goal relate to public management of public services and facilities, which is the role of government agencies and not a burden upon individual site-specific zone change applications. The site abuts existing improved public streets with improved vehicular, pedestrian, bicycle, and mass transit facilities already in place. The specific analysis of adequacy of services for this proposal have been considered under findings for Comprehensive Plan Goal 6 (Transportation) above, as well as the Zoning Map Amendment approval criteria which follow later in this recommendation. The site is identified as meeting the Street Connectivity Spacing standard on Map 11.11.16 of this Goal. By virtue of the location adjacent to existing public facilities which are already in place, and because there are no identified transportation-related deficiencies as noted in Policy 11.11, Street Plans, the proposal is supportive of Goal 11.

**Goal 12 Urban Design:** *This goal seeks to enhance Portland as a livable city, attractive in its setting and dynamic in its urban character by building quality private developments and public improvements for future generations.*

**Findings:** The proposal has no impact on urban design. The site has recently obtained approval through two separate Design Reviews for the ongoing redevelopment of the site. The Phase II Design Review approved in case file LU 16-185068 DZM has a condition of approval which requires the proposed Comprehensive Plan and Zoning Map amendments to be approved prior to any construction of that phase (vertical addition of a new top floor on the existing building). The site-specific changes that were recently reviewed through Design Review are not under consideration in this

proposal. Because the Design overlay zone remains in place, and design issues were handled through separate reviews, this goal is not applicable.

2. The requested change is consistent with Statewide Land Use Planning Goals;

**Findings:** The State Land Conservation and Development Commission (LCDC) has acknowledged the City's *Comprehensive Plan*, and the City goals mentioned in "LCDC and Comprehensive Plan Considerations" are comparable to the statewide planning goals, as follows: City Goal 1 is the equivalent of State Goal 2 (Land Use Planning); City Goal 2 addresses the issues of State Goal 14 (Urbanization); and City Goal 3 deals with local issues of the neighborhoods. Additionally, the following City and State goals are similar: City Goal 4 - State Goal 10 (Housing); City Goal 5 State Goal 9 (Economic Development); City Goal 6 - State Goal 12 (Transportation); City Goal 7 - State Goal 13 (Energy Conservation); City Goal 8 - State Goals 5, 6, 7, and 8 (Open Space, Scenic and Historic Areas and Natural Resources, Air, Water and Land Resource Quality, Areas Subject to Natural Disaster and Hazards, and Recreational Needs); and City Goal 9 - State Goal 1 (Citizen Involvement). Further, City Goal 10 addresses City plan amendments and rezoning, and City Goal 11 is similar to State Goal 11 (Public Facilities and Services).

For quasi-judicial plan amendments, compliance with the City's plan goals, as discussed here, show compliance with applicable state goals. The analysis in this report indicates that this proposal supports all applicable City goals and policies. This criterion is met.

3. When the requested amendment is:

- From a residential Comprehensive Plan Map designation to a commercial, employment, industrial, or institutional campus Comprehensive Plan Map designation; or
- From the urban commercial Comprehensive Plan Map designation with CM zoning to another commercial, employment, industrial, or institutional campus Comprehensive Plan Map designation;

the requested change will not result in a net loss of potential housing units. The number of potential housing units lost may not be greater than the potential housing units gained. The method for calculating potential housing units is specified in subparagraph A.2.a, below; potential housing units may be gained as specified in subparagraph A.2.b, below.

- a. Calculating potential housing units. To calculate potential housing units, the maximum density allowed by the zone is used.

**Findings:** The applicant is proposing to change the Comprehensive Plan Map designation for a roughly 2,512 square foot portion of the site from a residential designation to a commercial designation. Therefore, this criterion applies. The fact that residential development is also allowed in the proposed CN2 zoning is irrelevant for purposes of calculating potential housing units pursuant to 33.810.050.A.3.a.

The maximum density for the R1 zone is 1 unit per 1,000 square feet of site area. With 2,512 square feet of land area divided by 1,000 square feet, the fractional result is 2.51 ( $2,512 \div 1,000 = 2.51$ ). In the Measurements Chapter of the Zoning Code, it states that fractional results for maximum density calculations that result in a fraction less than 0.90 will be rounded down to the next whole number (33.020.B.2). Therefore, the 2.51 fractional result for maximum density rounds down to two dwelling units.

- b. Gaining potential housing units. Potential housing units may be gained through any of the following means:
1. Rezoning and redesignating land off site from a commercial, employment, or industrial designation to residential;
  2. Rezoning and redesignating lower-density residential land off site to higher-density residential land;
  3. Rezoning land on or off site to the CM zone;
  4. Building residential units on the site or in a commercial or employment zone off site. When this option is used to mitigate for lost housing potential in an RX, RH, or R1 zone, only the number of units required by the minimum density regulations of the zone are required to be built to mitigate for the lost housing potential; or
  5. Any other method that results in no net loss of potential housing units, including units from the housing pool as stated in 33.810.060 below;
  6. In commercial and employment zones, residential units that are required, such as by a housing requirement of a plan district, are not credited as mitigating for the loss of potential units.
  7. When housing units in commercial or employment zones are used to mitigate for lost housing potential, a covenant must be included that guarantees that the site will remain in housing for the credited number of units for at least 25 years.

**Findings:** This “no net loss” criterion requires the replacement of the housing or protection of already developed housing that has been constructed in a nonresidential zone. The applicant did not propose any rezoning or redesignating of offsite lands to residential, CM, or higher density residential. Therefore 33.810.050.A.3.b(1), (2) and (3) are inapplicable. The applicant did not propose to

build residential units on the site or in an off site commercial or employment zone. Therefore 33.810.050.A.3.b(4) is inapplicable.

The applicant proposed to mitigate for the lost potential housing units pursuant to 33.810.050.A.3.b(5), "Any other method that results in no net loss of potential housing unit..." by identifying two residential units constructed by Central City Concern and the Portland Development Commission (the "PDC") that are subject to a 60-year covenant, similar to what the City of Portland proposed in Case File 14-104931 CP ZC (page 5 of Exhibit H-6). However, as noted in Exhibit H-15, the City of Portland obtained permission from Central City Concern and the PDC to utilize residential units in the Richard L. Harris Building for the express purpose of mitigating for the potential housing units lost by the Comprehensive Plan amendment and Zone Change at issue in LU 14-104931 CP ZC. There is no evidence in the record that the applicant has permission to utilize additional residential units constructed by Central City Concern to mitigate for the potential housing units lost by this proposal.

As discussed in Exhibit H-15, there is no evidence that the housing pool noted in 33.810.050.A.3.b(4) and 33.81.060 was ever set-up or administered by the City. Therefore, the applicant cannot rely on the housing pool to mitigate for the potential housing units lost by this proposal.

The applicant can comply with 33.810.050.A.3.b(5) by identifying two non-required housing units in another development in a commercial or employment zone project, obtaining permission from the developer to record the covenant required by 33.810.050.A.3.b(7), and actually recording a covenant that guarantees that the two identified units will remain in housing for at least 25 years.

The applicant must mitigate for the loss of two housing units, based on the maximum density allowed in the R1 zoned portion of the site. 33.810.050.A.3.b(4) allows mitigation for lost housing units based on the minimum density of the existing zone when the applicant builds residential units on the site or in an off site Commercial or Employment zone. 33.810.050.A.3.b(5) does not contain a similar provision. If the City Council had intended to allow replacement at minimum density for methods other than building actual units it would have said so, as it did in 33.810.050.A.3.b(4).

The applicant can comply with 33.810.050.A.3.b(5) by obtaining permission from Central City Concern to utilize two units within the Richard L. Harris Building at 8 NW 8<sup>th</sup> Avenue that are subject to an existing covenant. In the alternative, the applicant may submit evidence of a 25-year restrictive covenant for two units at



the site of another commercial or employment zone project with non-required housing.

As staff noted, the applicant cannot defer compliance with this requirement to final occupancy of the proposed development on the site because “[i]t is logistically difficult or impossible to ensure that zoning-related issues are addressed in the process of issuing a final certificate of occupancy for the project, which usually occurs as a building code-related process after the final zoning inspection is complete” (Pages 2-3 of Exhibit H-15). There is no substantial evidence to the contrary. Therefore, the applicant must provide evidence of a recorded covenant prior to any changes to the Zoning and Comprehensive Plan Map designations.

This application must demonstrate compliance with the applicable approval criteria based on existing conditions. The City’s 2035 Comprehensive Plan Update, which removed residential zoning on this site, is not final. The Update is currently under review by the State of Oregon. Therefore, potential changes reflected in the Update are not relevant to this application.

With a condition of approval, this criterion is met.

**SUMMARY Finding for Comprehensive Plan Map Amendment:** The proposal is supportive of all relevant Comprehensive Plan Goals and Policies, provided the applicant mitigates for the two lost potential housing units in the area being re-zoned from the Medium-Density Multi-Dwelling to Urban Commercial. Therefore, these criteria are met, subject to a condition of approval.

### **33.855.050 Approval Criteria for Base Zone changes**

An amendment to the base zone designation on the Official Zoning Maps will be approved (either quasi-judicial or legislative) if the review body finds that the applicant has shown that all of the following approval criteria are met:

#### **A. Compliance with the Comprehensive Plan Map.** The zone change is to a corresponding zone of the Comprehensive Plan Map.

1. When the Comprehensive Plan Map designation has more than one corresponding zone, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.

**Findings:** Under the provisions of Portland Comprehensive Plan, the Urban Commercial plan designation has two companion zoning designations, Storefront Commercial (CS) and Mixed Commercial/Residential (CM). These zones are similar in their intention to support economic development and the vitality of commercial districts, with the primary

distinction between the two being that the CM zone requires mixed-use developments with a minimum amount of residential floor area when new non-residential floor area is proposed. Because future expansions of the building at the site include an additional floor of office space but no housing, the applicant has selected the CS zone as the more appropriate. The surrounding zoning pattern includes both the CM and CS zones, both of which are found across the street to the east. There is somewhat more CS zoning in the nearby vicinity than CM zoning. Based on these considerations, the Storefront Commercial (CS) zone is the most appropriate for the proposal. This criterion is met.

1. Where R zoned lands have a C, E, or I designation with a Buffer overlay, the zone change will only be approved if it is for the expansion of a use from abutting nonresidential land. Zone changes for new uses that are not expansions are prohibited.

**Findings:** This provision is not applicable as there is no Buffer overlay on the site.

3. When the zone change request is from a higher-density residential zone to a lower-density residential zone, or from the CM zone to the CS zone, then the approval criterion in 33.810.050 A.2 must be met.

**Findings:** The zone change request is not from a higher density residential zone to a lower density residential zone, or from the CM zone to the CS zone. Therefore, this criterion is not applicable.

## **B. Adequate public services.**

1. Adequacy of services applies only to the specific zone change site.

**Findings:** The purpose of this criterion is to indicate that the adequacy test only applies to the property under consideration for the Comprehensive Plan Map and Zoning Map amendment. Generally, the test applies to any of the range of uses permitted in the underlying zone; as once rezoned, the use can be changed to another by right use without review. Thus, the testing of adequacy is based on the most intense use allowed in the requested zone. This criterion is met.

2. Adequacy of services is determined based on performance standards established by the service bureaus. The burden of proof is on the applicant to provide the necessary analysis. Factors to consider include the projected service demands of the site, the ability of the existing and proposed public services to accommodate those demand numbers, and the characteristics of the site and development proposal, if any.

- a. Public services for water supply, and capacity, and police and fire protection are capable of supporting the uses allowed by the zone or will be capable by the time development is complete.

**Findings:** This approval criterion is met.

*Water Supply and Capacity*

The Water Bureau has reviewed the proposal and responded without objection or concern. There are adequate public water services available to the site (Exhibit E.3).

*Police Protection*

The Police Bureau has reviewed the proposal and responded that they are capable of serving the proposed use (Exhibit E.5). A series of optional recommendations regarding keeping the address signage visible and maintaining landscaping have been provided, but they do not conflict with the finding that Police services are capable of serving the proposed use.

*Fire Protection*

The Fire Bureau has reviewed the proposal and responded without objection or concern (Exhibit H-8). The Fire Bureau notes that a building permit will be required for development on the site and Fire Code requirements will apply at the time of permit review and development.

- b. Proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services. Performance standards must be applied to the specific site design. Limitations on development level, mitigation measures or discharge restrictions may be necessary in order to assure these services are adequate.

**Findings:** The Bureau of Environmental Services has reviewed the proposal and responded that sanitary waste and disposal systems are acceptable, and voice no objection to approval of the requested Comprehensive Plan and Zoning Map Amendments. The specific details of sanitary waste and stormwater disposal associated with the in-progress remodeling of the former health club into an office building were reviewed in detail during the recent Design Review and building permit procedures. Exhibit E.1 contains staff contact and additional information.

- c. Public services for transportation system facilities are capable of supporting the uses allowed by the zone or will be capable by the time development is complete. Transportation capacity must be capable of supporting the uses allowed by the zone by the time development is complete, and in the planning period defined by the Oregon Transportation Rule, which is 20 years from the

date the Transportation System Plan was adopted. Limitations on development level or mitigation measures may be necessary in order to assure transportation services are adequate.

**Findings:** The Development Review Section of PBOT has reviewed the proposal and responded with a detailed analysis of this approval criterion, included in the file as Exhibit E.2, as amended by Exhibit H-14, and cited below:

**Base Zone Amendment (33.855.050.B.2)**

The Zoning Map Amendment is subject to approval criteria wherein the applicant must demonstrate that the transportation system facilities and capacity will be capable of supporting the proposal in addition to existing uses in the area.

*33.855.050. B.2. Adequacy of services is based on the projected service demands of the site and the ability of the public services to accommodate those demands. Service demands may be determined based on a specific use or development proposal, if submitted. If a specific proposal is not submitted, determination is based on City service bureau demand projections for that zone or area which are then applied to the size of the site. Adequacy of services is determined by the service bureaus, who apply the demand numbers to the actual and proposed services to the site and surrounding area.*

*33.855.050.B.2.c Public services for transportation system facilities are capable of supporting the uses allowed by the zone or will be capable by the time development is complete. Transportation capacity must be capable of supporting the uses allowed by the zone by the time development is complete, and in the planning period defined by the Oregon Transportation Rule, which is 20 years from the date the Transportation System Plan was adopted. Limitations on development level or mitigation measures may be necessary in order to assure transportation services are adequate.*

As discussed in detail above (under findings for the Comprehensive Plan Map Amendment), after review of the applicant's revised Final TIS dated February 13, 2017 (Exhibit H-13a), "PBOT has no objections to the proposed Comprehensive Plan Amendment and Zone Map Amendment subject to ... conditions" (page 3 of Exhibit H-14). This approval criterion is met.

3. Services to a site that is requesting rezoning to IR Institutional Residential, will be considered adequate if the development proposed is mitigated through an approved impact mitigation plan or conditional use master plan for the institution.

**Findings:** The applicant is not requesting IR (Institutional Residential) zoning; therefore, this criterion does not apply.

- C. When the requested zone is IR, Institutional Residential.** In addition to the criteria listed in subsections A. and B. of this Section, a site being rezoned to IR, Institutional Residential must be under the control of an institution that is a participant in an approved impact mitigation plan or conditional use master plan that includes the site. A site will be considered under an institution's control when it is owned by the institution or when the institution holds a lease for use of the site that covers the next 20 years or more.

**Findings:** The applicant is not requesting IR (Institutional Residential) zoning; therefore, this criterion does not apply.

## **DEVELOPMENT STANDARDS**

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## **III. CONCLUSIONS**

The applicant has proposed a slight “up-zone” to the Urban Commercial designation at the site, increasing the allowed floor-area-ratio (FAR) from 0.75:1 to 3:1, and increasing the maximum height limit from 30 to 45 feet. A concurrent elimination of the Medium Density Multi-Dwelling designation is necessary to allow reconfiguration of commercial exterior improvements on the southeast corner of the site, which would otherwise not be allowed. As proposed, the project is able to meet all of the relevant approval criteria for both the Comprehensive Plan and Zoning Map amendments, subject to conditions. With conditions of approval, this proposal can be approved.

## **IV. RECOMMENDATION**

**Approval of a Comprehensive Plan Map Amendment** from Neighborhood Commercial 2 and Medium Density Multi Dwelling to Urban Commercial.

**Approval of a Zoning Map Amendment** from CN2d (Neighborhood Commercial 2 with Design overlay zone) and R1d (Residential, 1,000 with Design overlay zone) to CSd (Storefront Commercial base zone with Design overlay zone).

Both approvals are subject to the following conditions:

- A. Prior to any changes being made to the Zoning Map and Comprehensive Plan Map designations, the applicant must:**

1. Submit a letter from Central City Concern documenting owner permission for the use of an existing restrictive covenant on two units at the site of the Richard L. Harris Building (8 NW 8<sup>th</sup> Avenue), with the covenant having been previously documented as Exhibit G.5 of LU 14-104931; or,
2. Submit documentation of property owner permission and a restrictive covenant of at least 25 years for two units at the site of another commercial or employment zone project with non-required housing.

**B. The following conditions are applicable to development on the site:**

1. Development shall be limited to the land use and trip rate allocations per Table 1 below. Total vehicle trips shall not exceed 401 AM peak hour trips. The applicant shall be responsible for providing an accounting of all square footages for each proposed use, as well as existing uses, and the conversion to vehicle trips for each building permit application.

Table 1: Land Use and Trip Rate Allocations<sup>1</sup> - Maximum 401 AM Peak Hour Trips

Zoning Land Use Category (ITE Land Use Category)	Building Square Footage (GLA)/Other	AM Peak Hour Trip Rate <sup>2</sup>
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Vehicle Repair (Automobile Care Center, ITE 942)	1,000 square feet	2.25
Industrial Use Categories (Manufacturing, ITE 140)	1,000 square feet	0.73
Institutional Use Categories (Day Care, ITE 565)	1,000 square feet	12.18

<sup>1</sup> The building square footage or dwelling units shall be converted to trips and compared to the maximum established. The established trip rates for these land use categories shall not be altered

<sup>2</sup> All trip rates in this table are based on the ITE trip generation, 9<sup>th</sup> Edition rates for reasonable worst case uses as shown in the Land Use column for the AM peak hour

2. In addition to documenting compliance with applicable Zoning Code requirements, all building permit applications submitted for new development/redevelopment shall include:
  - a. A description of the proposed development, with floor area or dwelling unit calculations by land use category;
  - b. The resulting new vehicle trips generated by the proposed development, using Table 1;

- c. The calculated number of vehicle trips generated by any existing development, using Table 1; and
- d. Confirmation that proposed use vehicle trips plus existing use vehicle trips do not exceed 401 AM peak hour trips.



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Joe Turner, Hearings Officer

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3/16/17  
Date

**Application Determined Complete:** December 2, 2016  
**Report to Hearings Officer:** January 25, 2017  
**Recommendation Mailed:** March 17, 2017

**City Council Hearing.** The City Code requires the City Council to hold a public hearing on this case and you will have the opportunity to testify. The hearing will be scheduled by BDS staff and the City Auditor upon receipt of the Hearings Officer's recommendation. If you wish to speak at the Council hearing, you are encouraged to submit written materials upon which your testimony will be based, to the City Auditor.

**The future City Council decision, and any conditions associated with it, is final.** It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

**Who can appeal.** Failure to raise an issue in person or in writing by the close of the record at or following the final evidentiary hearing on this case may preclude an appeal to LUBA on that issue. Also, if you do not provide enough detailed information to City Council, they may not be able to respond to the issue you are trying to raise. In such a situation, an appeal to LUBA based on that issue may not be allowed.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

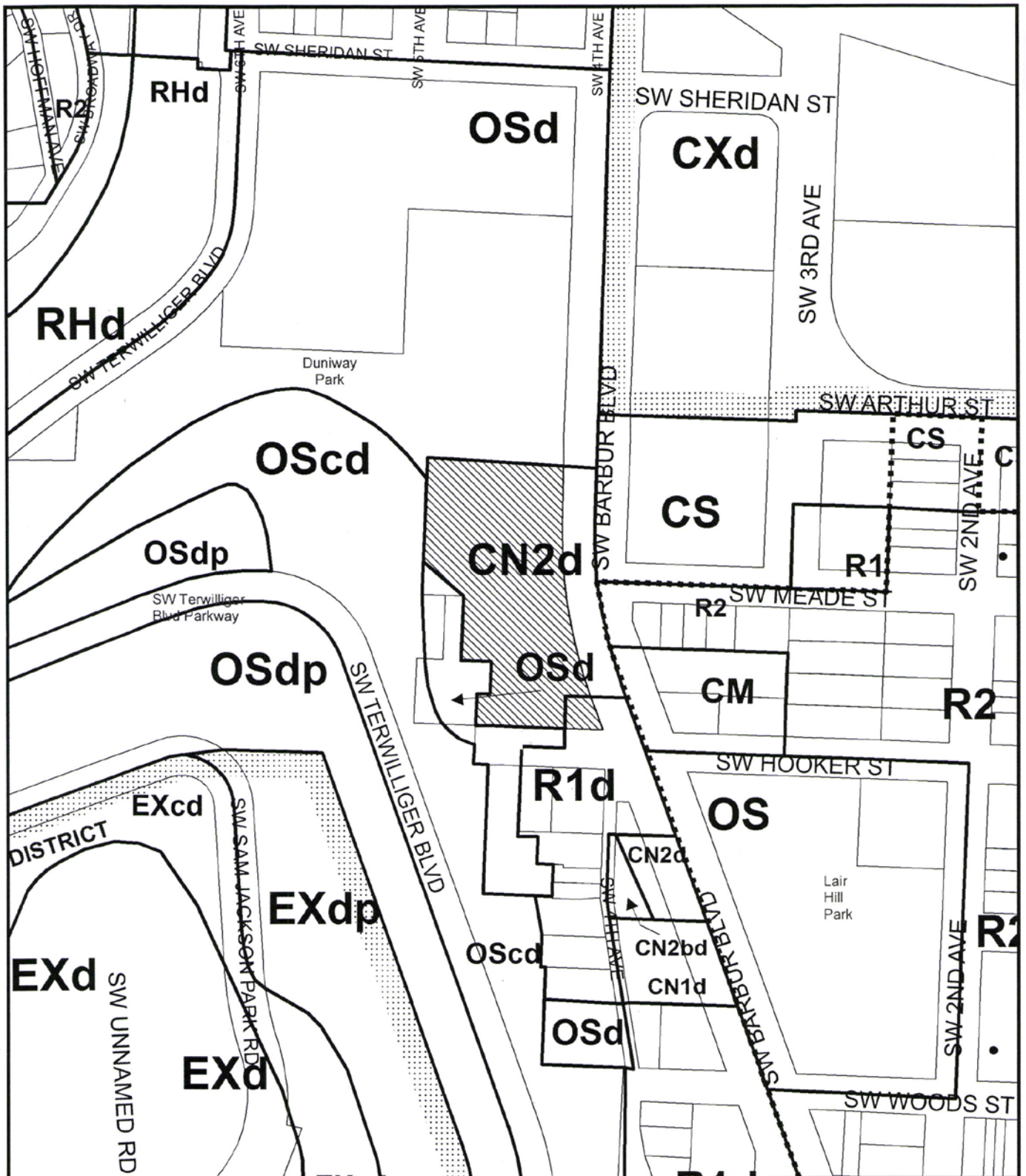


## EXHIBITS


(Not Attached Unless Indicated)

- A. Applicant's Statements
  - 1. Original narrative addressing Zoning Code approval criteria
  - 2. Original Traffic Impact Analysis, DKS Engineering, dated June 2016
  - 3. Original Traffic Impact Analysis Appendix, DKS Engineering, dated June 2016
  - 4. Original preliminary stormwater management report, Humber Design Group Inc., dated Sept. 3, 2015
  - 5. Original geotechnical and seismic report, GeoDesign Inc., dated Sept. 28, 2015
  - 6. Amended preliminary stormwater management report, Humber Design Group Inc., dated Oct. 7, 2016 and received Dec. 7, 2016
  - 7. Amended Traffic Impact Analysis, DKS Engineering, dated October 2016 and received Dec. 7, 2016
  - 8. Amended Traffic Impact Analysis Appendix, DKS Engineering, dated October 2016 and received Dec. 7, 2016
  - 9. Full set of Design Review drawings for proposed future building addition
  - 10. Applicant statement to proceed with hearing despite outstanding PBOT issues and recommendation of denial, including forwarded list of outstanding PBOT issues (e-mail thread from Jan. 20, 2017)
- B. Zoning Maps (**attached**)
  - 1. Existing Zoning
  - 2. Proposed Zoning
- C. Plans and Drawings
  - 1. Site Plan (**attached**)
  - 2. Utility Plan (**attached**)
  - 3. 11" x 17" utility plan
  - 4. Large, scalable utility plan
- D. Notification information
  - 1. Request for response
  - 2. Posting information and notice as sent to applicant
  - 3. Applicant's statement certifying posting
  - 4. Mailing list for public hearing notice
  - 5. Postmarked and mailed copy of public hearing notice
  - 6. Preliminary DLCD Notice
- E. Agency Responses
  - 1. Bureau of Environmental Services
  - 2. Development Review Section of Portland Transportation
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Police Bureau
  - 6. Life Safety Section of Bureau of Development Services

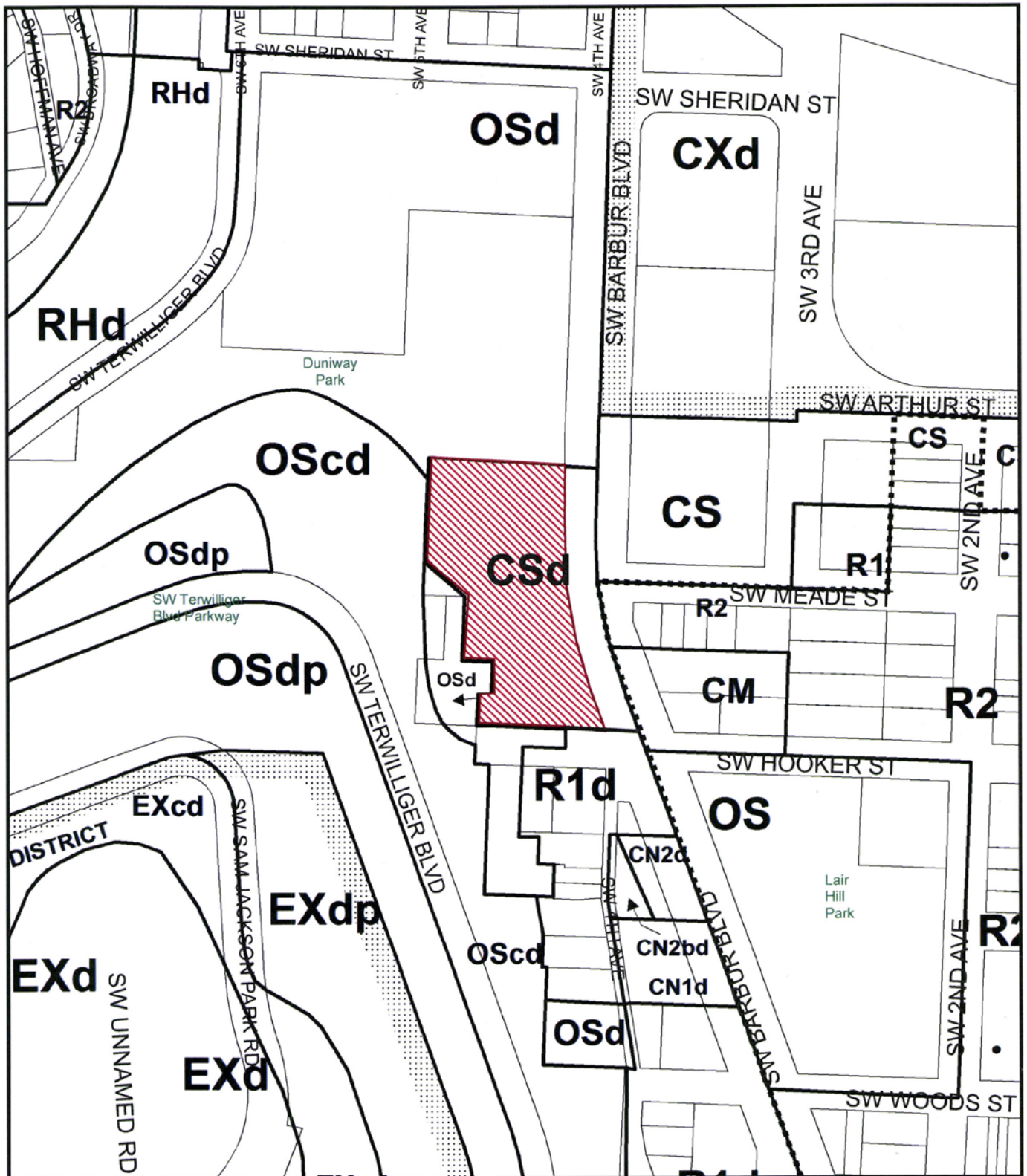
7. Site Development Section of the Bureau of Development Services
8. Urban Forestry Section of Portland Parks and Recreation
- F. Letters (*none received at time of initial staff report publication on January 23, 2017*)
- G. Other
  1. Original LU Application Form and Receipt
  2. Pre-Application Conference summary notes, EA 15-163884 PC
  3. Request for Completeness (RFC) documents
  4. Annotated comments on issues with initial Traffic Impact Analysis, including redlines from Portland Transportation staff embedded in document, dated July 5, 2016
  5. Incomplete letter from staff to applicant, sent July 7, 2016
  6. Letter from Tommy Brooks to staff requesting information on case, dated Oct. 20, 2016
  7. Routing slip to internal staff, dated Dec. 20, 2016
- H. Received in the Hearings Office
  1. Hearing Notice - Moffett, Mark
  2. Staff Report - Moffett, Mark
  3. 2/2/17 Memo (7 pages) - Winterowd, Greg
  4. Traffic Impact Analysis for Proposed Under Armour Office Development - Feb. 2017 - Springer, Carl
  5. Appendix - Under Armour Office Development Transportation Impact Study - Springer, Carl
  6. 2/2/17 Applicant's Supplemental Submittal Regarding Housing Potential letter (7 pages) - Brooks, Tommy
    - a. 09-133971 CP ZC AD Excerpts - Brooks, Tommy
    - b. 11-103310 CP ZC AD Excerpts - Brooks, Tommy
    - c. 11-138415 CP ZC Excerpts - Brooks, Tommy
    - d. 14-105474 CP ZC Excerpts - Brooks, Tommy
    - e. 14-104931 CP ZC Excerpts - Brooks, Tommy
  7. 2/2/17 letter - Gardner, Jim
  8. 1/25/17 Memo from Dawn Krantz, Fire Bureau - Moffett, Mark
  9. Record Closing Information - Hearings Office
  10. PowerPoint presentation printout - Moffett, Mark
  11. Traffic Impact Analysis for Proposed Under Armour Office Development - 2/8/17 - Brewster, Rob
  12. Appendix - February 2017 - Brewster, Rob
  13. 2/13/17 Memo with attachments - Delahanty, Ray
    - a. Traffic Impact Analysis for Proposed Under Armour Office Development 2/13/17 - Delahanty, Ray
    - b. Appendix - 2/13/17 - Delahanty, Ray
  14. Letter dated 2/1/17 - Montalvo, Teresa
  15. 2/16/17 Memo with attachment - Moffett, Mark
    - a. Oregon Housing and Community Services 9% Low-Income Housing Tax Credit Declaration of Land Use Restrictive Covenants - Moffett, Mark



# **ZONING EXISTING**

-  Site
-  Historic Landmark
-  NORTH

File No. LU 16-186417 CP ZC  
 1/4 Section 3328  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E09AA 2300  
 Exhibit B.1 (Jun 13, 2016)



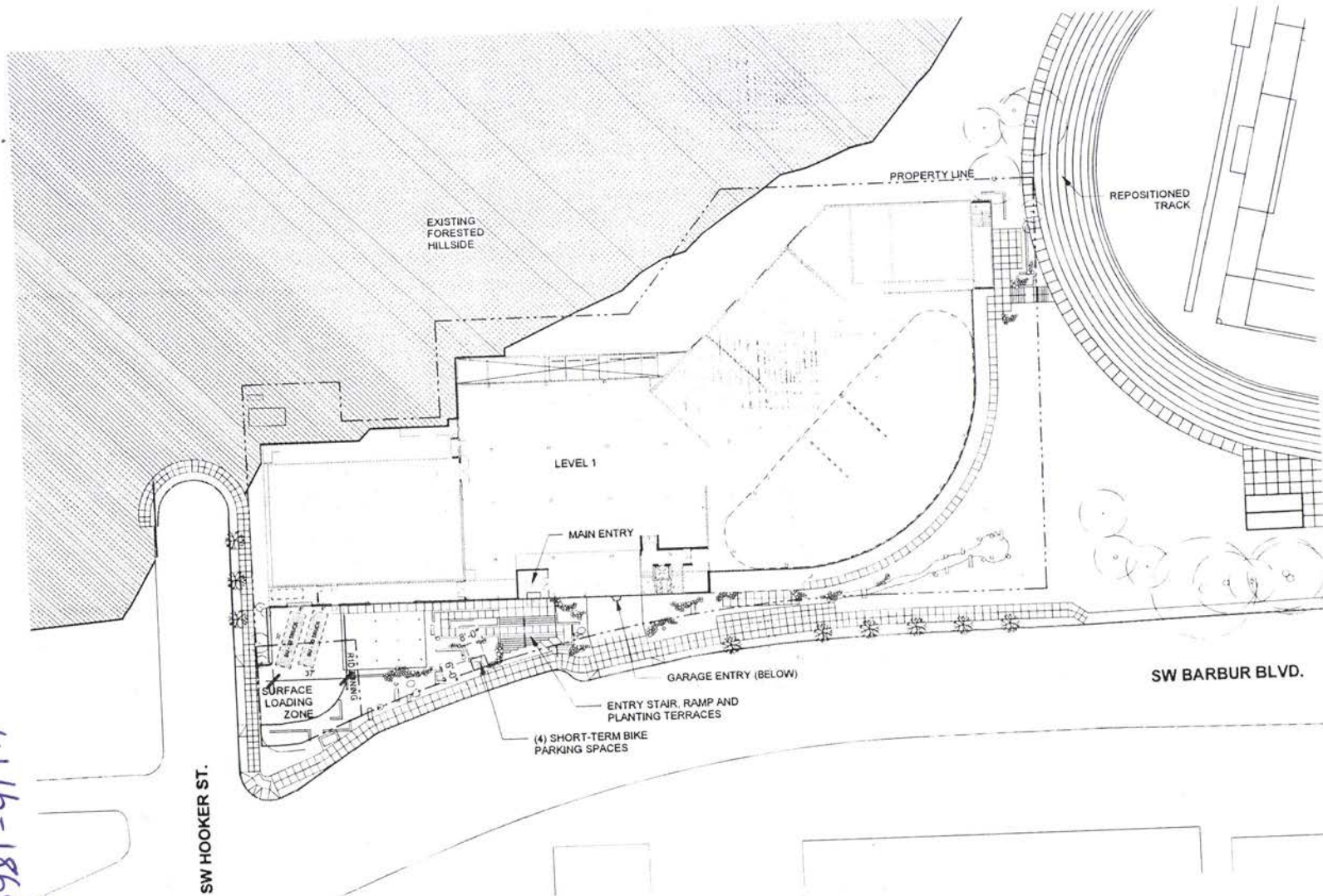
# ZONING PROPOSED

- Site
- Historic Landmark
- NORTH

File No. LU 16-186417 CP ZC  
1/4 Section 3328  
Scale 1 inch = 200 feet  
State\_Id 1S1E09AA 2300  
Exhibit B.2 (Jun 14, 2016)



RUN OUR DREAM, LLC.  
Bora



APPROVED UNDER  
LAND USE REVIEW  
#LU 15-205150 DZM  
NOVEMBER 16TH, 2015

Scale: N.T.S.

FILE # 16-143500-000-00-EA  
June 6, 2016

exhibit C.13

LU 16-186417 CP, ZC

Exhibit C.1  
W 16-186417 CP ZC

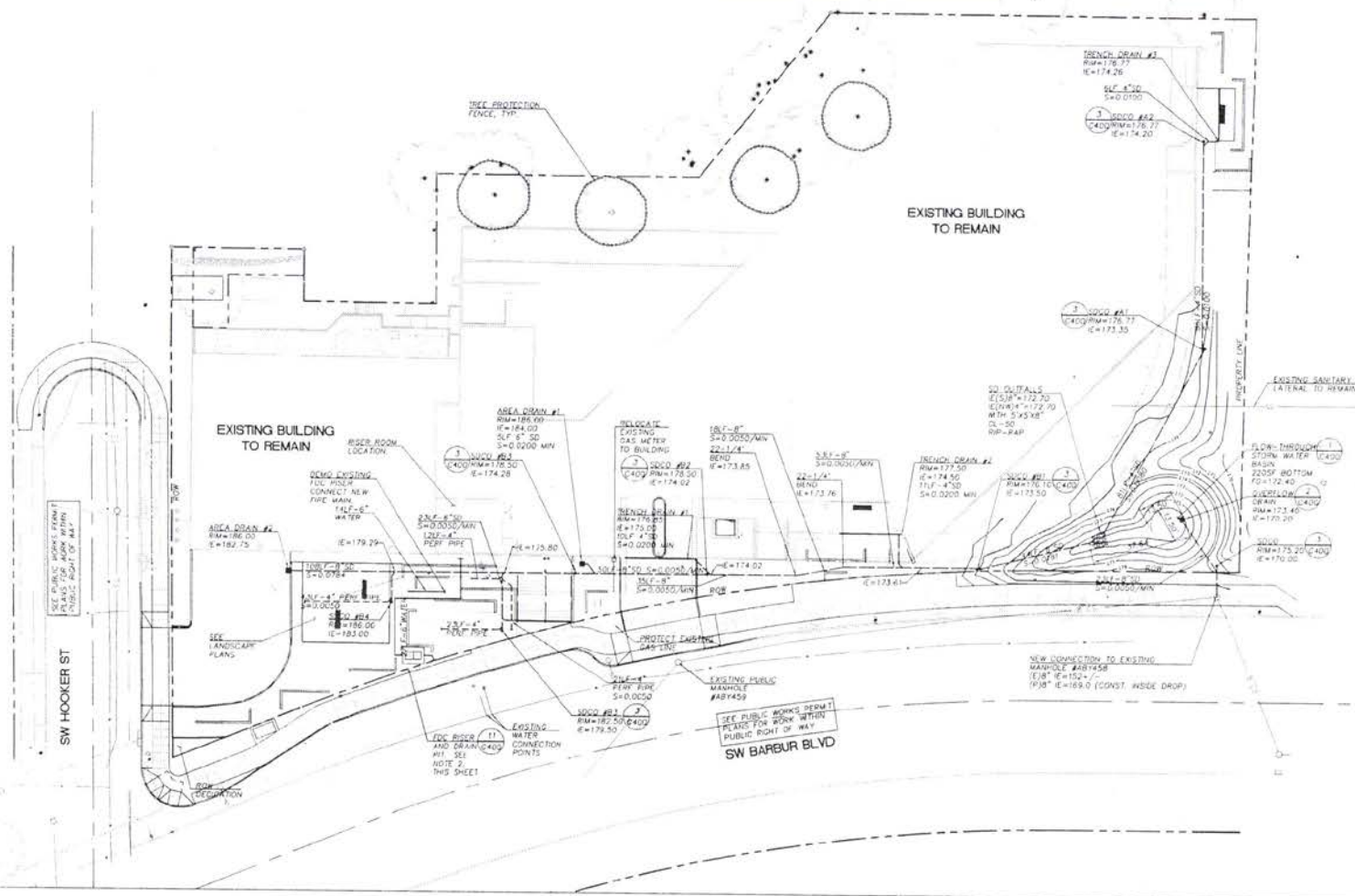
## Site Plan

### The Site

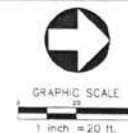
Exhibit C.2  
 1016-186417 EPZC

SHEET LEGEND	
-----	TREE PROTECTION FENCE

SHEET NOTES	
1.	ALL DOMESTIC WATER AND FWT PROTECTION WORK IN THE PUBLIC RIGHT OF WAY BY PORTLAND WATER BUREAU AT OWNER'S EXPENSE. CONTRACTOR TO COORDINATE WORK WITH PORTLAND WATER BUREAU.
2.	INSTALL SIGN NEAR FDC MISC STATION "C" WITH THE ADDRESS OF BUILDING BEING SERVED PER OFC 312.4



OVERALL UTILITY PLAN  
 1"=20'



UTILITY PLAN  
 C300