



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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RECOMMENDATION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File No.: LU 14-105474 CP ZC
HO 4140008

Applicant: Sam Rodriguez
Mill Creek Residential Trust, LLC
220 NW 2nd Avenue
Portland, OR 97209

Attorney: Steve Janik, Attorney
Ball Janik, LLP
101 SW Main Street, Suite 1100
Portland, OR 97204

Owner: Norman Rich, Manager
Mac Block 7 LLC/ Multnomah Athletic Club
1849 SW Salmon Street
Portland, OR 97207

Hearings Officer: Kenneth D. Helm

Bureau of Development Services (BDS) Representative: Sheila Frugoli

Site Address: Vacant block (Block 7) bounded by SW 20th, 19th Avenues and SW Main and Madison Streets

Legal Description: BLOCK 7 TL 9300, AMOS N KINGS; BLOCK 7 TL 9400, AMOS N KINGS; BLOCK 7 TL 1800, AMOS N KINGS; N 1/2 OF N 1/2 OF SE 1/4 BLOCK 7, AMOS N KINGS; BLOCK 7 TL 1700, AMOS N KINGS; BLOCK 7 TL 1600, AMOS N KINGS; BLOCK 7 TL 1500, AMOS N KINGS; BLOCK 7 TL 2000, AMOS N KINGS; BLOCK 7 TL 2100, AMOS N KINGS; BLOCK 7 TL 9500, AMOS N KINGS

Tax Account No.: R024401010, R024401030, R024401070, R024401090, R024401110,
R024401130, R024401150, R024401170, R024401190, R024401210,
R024401110

State ID No.: 1N1E33CD 09300, 1N1E33CD 09400, 1S1E04BA 01800, 1S1E04BA
01900, 1S1E04BA 01700, 1S1E04BA 01600, 1S1E04BA 01500,
1S1E04BA 02000, 1S1E04BA 02100, 1N1E33CD 09500, 1S1E04BA
01700

Quarter Section: 3027

Neighborhood: Goose Hollow

Business District: Goose Hollow Business Association

District Coalition: Neighbors West/Northwest

Plan District: Central City - Goose Hollow

Zoning: RHd, High Density Multi-Dwelling Residential zone with the "d" Design
overlay zone

Land Use Review: Type III, CP ZC – Comprehensive Plan Map and Zoning Map Amendment
Reviews

Public Hearing: The hearing was opened at 9:01 a.m. on May 21, 2014 in Room 2500A, 1900 SW
4th Avenue, Portland, Oregon, and was closed at 11:37 a.m. The record was held open until 4:30
p.m. on May 30, 2014 for argument/evidence from any party. The record was held open until 4:30
p.m. on June 6, 2014 for responsive argument only from any party. The record was held open until
4:30 p.m. on June 13, 2014 for submission of the applicant's final argument. The record was closed
at that time.

Testified at Hearing:

- Sheila Frugoli
- Steve Janik
- Sam Rodriguez
- Julia Kuhn
- Matt Vell
- Dwight Terry
- Adrienne Hill
- Dennis Cusack
- Marlys Miller
- Amy Marks

- Spencer Raymond
- Darcy Henderson
- Jennifer Bonsall
- Jennifer Bragar
- Tom Milne
- Tracy Prince
- Jeff Malmquist
- Kal Toth
- Cliff Weber
- Harvey Black
- Karl Reer
- Tom Walsh
- Connie Kirk
- Daniel Salomon
- Rachel Clark
- Jerry Powell
- Nicolas Clark

Proposal: The applicant is requesting a Comprehensive Plan Map and Zoning Map Amendment to change the current designation and zoning on a 43,557 square foot site from the High Density Multi-Dwelling designation and zone (RH) to the Central Commercial designation and zone (CX). The “d” Design overlay zone and the provisions in the Central City Plan District will remain applicable.

The applicant is requesting the map amendment in order to develop a multi-story building that will contain 260-280 multi-dwelling residential units, and approximately 16 studios that will be used as short-term stay (hotel) rooms for the exclusive use of the Multnomah Athletic Club (MAC) members and guests. The site will contain approximately 420 parking spaces. If approved through a separate Central City Parking Review, 225 spaces will serve the adjacent MAC facilities. Access to the 225 MAC spaces will be limited to a vehicle and pedestrian tunnel (under SW Main Street) that will connect to the existing MAC parking garage. This will enable vehicle to access the Block 7 MAC parking spaces through the existing accessway of the MAC garage. The applicant states that the additional MAC parking will address parking demand from the existing MAC facilities. The applicant intends to construct 191 parking spaces that will serve the proposed residential units. The residential parking spaces will have separate vehicle access (driveway) from one of the fronting streets on Block 7.

Residential development and accessory parking is allowed in the RH zone. The applicant is requesting the map change from the RH to CX zone so that MAC parking and the short-stay rooms, which are classified in the Portland Zoning Code as Retail Sales and Service Uses, may be proposed on the site. If this Comprehensive Plan Map and Zoning Map Amendment request is approved, the applicant will then seek approval of a Type III Design Review for the new building and a Type III Central City Parking Review for the MAC parking.

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 Comprehensive Plan Map Amendments**
- **33.855.050 Zoning Map Amendments**

HEARINGS OFFICER'S OVERVIEW:

This recommendation will closely follow the format of the BDS Staff Report and Recommendation. If the BDS Staff finding is not challenged, or the challenge to the finding is not relevant, then the Hearings Officer adopts the BDS Staff findings as stated. If the BDS Staff finding is challenged with relevant argument and evidence, then those disagreements will be discussed in a "Hearings Officer findings" section following the BDS Staff findings. Within that section will be a discussion of any public comment or argument between the parties associated with the underlying code criterion.

What follows in this overview is: 1) a summary of the public hearing, 2) a discussion of the legal standard the Hearings Officer will use to determine questions concerning the meaning of the goals and policies to which the proposal is subject, 3) an opinion on the applicability of the 1993 MAC Master Plan, and 4) an opinion on the question of whether the scope of analysis for the Comprehensive Plan Map and Zoning Map application can be limited to the actual uses MAC has proposed.

The Hearings Officer has reviewed all the written testimony and evidence submitted into the record. Where an exhibit is identified, the Hearings Officer has determined that the arguments contained in that exhibit are relevant enough to warrant discussion. However, most if not all of the opponents' arguments are well represented by Exhibit H.7, and I have relied on that document in an attempt to respond to all similar arguments raised by all participants.

Public Hearing

A public hearing was held on May 21, 2014. The Hearings Officer notified all present of their rights under ORS 197.763, and did not have any *ex parte* contacts to report.

BDS Staff provided a PowerPoint overview of the application (Exhibit H.12). BDS Staff recommended approval with conditions.

Attorney Steve Janik testified on behalf of the applicant. He stated that the applicant generally agreed with the BDS Staff findings, with the exception of findings on five policies. As an overview, he stated that Kittelson & Associates had determined that the current MAC garage is over capacity during lunch and evening hours about seven months of the year. Based on the square footage of the MAC, he estimated that applying the City's parking space standards the club should have about 1,060 spaces – and currently has about 500 or so.

He explained that the proposed below grade parking area (located under the future residential building) would be accessed via tunnel from the existing MAC garage, which would eliminate the need for an access to the adjacent streets. He also stated that the applicant had agreed to record a restrictive covenant to limit future uses to those identified in the application – other uses in the CX would be forbidden by the covenant. He argued that the prior MAC Master Plan (1993) has been superseded by a zone change in 1995 which extinguished any remaining conditions from the 1992 Master Plan.

He clarified that the application would not allow commercial parking. The parking for the MAC uses would be limited to MAC members, guests and affiliates. The applicant agreed to a condition requiring a Central City Parking Review (CCPR) as a condition of approval.

Several proponents of the application testified. Adrienne Hill stated that a 2013 parking survey showed that a majority of the permit parkers in the vicinity favored the concept of the MAC providing more off-street parking. Other participants testified that the impact of the proposal would be similar to the Legends building and would be compatible. Darcy Henderson, President of the MAC, stated that MAC members were concerned about both the lack of space in the garage and the limited on-street parking for both members and neighbors.

Attorney Jennifer Bragar testified in opposition to the application on behalf of Friends of Goose Hollow and Harvey Black (FOGH). She argued that the proposal violates the 1992 Master Plan, and that unless the Master Plan is amended first to allow the commercial use represented by the commercial parking (MAC parking), the proposal cannot move forward. She further argued that the applicant and BDS Staff erred by limiting the scope of analysis to the specific development plan identified by the MAC. Instead, she asserted that the full range of uses allowed in the CX zone must be analyzed under the relevant policies.

She argued that Statewide Planning Goals 6, 8, and 12 were not met. As to Goal 12, and the related Transportation Planning Rule, she argued that a more rigorous analysis was required that took into account “latent demand” for MAC parking - which would have the effect of increasing transportation impacts throughout the neighborhood. She explained that her clients and other neighbors were not convinced that the applicant had a real need for additional parking, and that the applicant’s Transportation Impact Analysis (TIA) did not prove that such a need exists. She also stated that the BDS Staff report had inadequate or no findings on key Comprehensive Plan Goals and policies. Those policies are identified in Exhibit H.5. She also argued that the BDS Staff report provided inadequate findings for policies 2.17, 5.7, 12.2 and 12.8.

Multiple neighbors testified in opposition to the application:

Tom Milne – argued that the MAC’s claims of inadequate parking were over-estimated and unsubstantiated. He stated that the MAC had not done enough to improve the 1981 Transportation Demand Management (TDM) plan. He found fault with MAC’s policies to not charge for member parking, not impose parking time limits, and provide unlimited guest parking. He felt that the proposed parking spaces would create more demand for parking by increased patronage. His

arguments are further explained in Exhibits H.41, and H.41 a-d. Similar arguments are raised by Casey Milne in Exhibits H.2-H.3a.

Tracy Prince – testified that the MAC needs to do more now to discourage car transportation. She felt that the 1981 agreement MAC made which was memorialized in the Master Plan forbid rezoning Block 7.

Jeff Malmquist – was very skeptical of the applicant's claims that no new vehicle trips would result from the proposed 225 parking spaces. He argued that latent demand exists and more parking would encourage more members to drive. He strongly believed that the proposal violated Comprehensive Plan Goals 3 and 6.

Kalman Toth – co-authored the Goose Hollow Foothills League (GHFL) Block 7 report. He explained that 16 professionals from various fields worked on the report. In addition to the five policies identified by BDS Staff, he argued that the proposal was inconsistent with approximately 24 relevant policies. He argued that much of the BDS Staff findings that relied on imposed conditions to reach a finding of “equally supports” – as set forth in Exhibit G.4 were incorrect because the conditions had not yet been met. His arguments are well laid out in Exhibits H.7 and H.46.

Cliff Weber – argued that the proposal did not provide the “diversified housing options” for a range of urban experience that Goal 2.2 requires.

Harvey Black – current chair of FOGH raised concerns about the potential 40 foot deep hole that would be required for the building in an area he argued is located at the toe of an historic landslide. He asked that a comprehensive geologic hazard study be required as a condition of approval.

Karl Reer – testified that the increased number of vehicles and the engine exhaust that they would add to the area violates air quality goals. For the same reason, he asserted that the proposal does not meet the city's 2009 Climate Action Plan. See also Exhibits H.11-11.c and H.35.

Tom Walsh – argued that Policy 4 of the Central City Plan component of the Comprehensive Plan requires “adequate parking” not “abundant parking” as the MAC requests.

Connie Kirk – argued that Goal 8 Environment is not met because air quality will be compromised. She also identified negative consequences from noise and potential nighttime trash pick-up. She asked that an environmental impact study be completed before the map amendments are approved. She also asked that the mature trees on Block 7 be preserved. See also Exhibit H.25.

Daniel Salomon – echoed the argument that the existing trees should remain on the site. He offered inventories of flora and fauna thought to exist on the block. See Exhibits H.22-22a.

Rachel Clark – believed that the MAC parking spaces would inevitably turn into “commercial parking.” She also argued that the new parking plan and tunnel will cause additional queuing which will be a nuisance for nearby residents.

Jerry Powell – argued that the MAC members already overuse the 2 hour parking in front of the club even though parking is available in the garage. As a former transportation professional, he felt that the International Transportation Engineers (ITE) Manual did not have an adequate category to represent the MAC, and therefore, the 225 spaces desired were not warranted.

Nicholas Clark – raised issues of coordination with the nearby schools to accommodate the new students who will be living in the proposed new residential building.

The applicant provided a brief rebuttal explaining that the proposed CX zone was also a residential zone that allows residential parking. On the issue of TDM, the applicant noted the parking surveys conducted by the MAC showed that 70 percent of members said inadequate parking is a problem.

At the end of the hearing, the parties agreed to leave the written record open. The Hearings Officer set the following schedule: 1) the record was left open for argument and evidence on any issue from any party until May 30, 2014 at 4:30 p.m., 2) responsive argument directed at the new testimony and evidence would be accepted until June 6, 2014 at 4:30 p.m., and 3) the applicant's final argument was due on June 13, 2014 at 4:30 p.m.

Participants submitted multiple documents during the open record period. Of these, there was one objection to the written documents submitted. The applicant objects to Exhibits H.54, H.54a, H.54b, and H.54c as going beyond the Hearings Officer's instructions that argument submitted prior to the June 6, 2014 deadline must be responsive only to new evidence submitted prior to May 30, 2014. In addition to making the objection, the applicant also responds to all of the new evidence submitted. See Exhibit H.55a. The Hearings Officer has examined the documents to which the applicant objects. I find that the objection should be sustained as to Exhibits H.54a (except for the David Evens & Associated June 6, 2014 memorandum) H.54b and H.54c because the submissions do not constitute responsive testimony or evidence. I also find that for the purposes of the Hearings Officer's review, Exhibits H.54b and H.54c would not be relevant anyway because they do not address relevant approval criteria. Exhibit H.54 reasonably responds to new issues raised and the applicant's objection to that exhibit is denied.

Master Plan

The opponents have strenuously argued that the 1992 Master Plan which was approved for the MAC is still applicable, and unless that Master Plan is amended, the proposed map changes are not possible. The opponents provide abundant legislative history on the MAC Master Plan beginning with the 1981 plan and continuing through the City Council negotiations leading to the 1992 version of the plan. Based on that legislative history, opponents feel strongly that the MAC made promises to the neighborhood about the future development of Block 7 and that the current proposal breaks those promises (Exhibits H.5, H.43, H.54).

The applicant responds that the 1992 Master Plan is not applicable because all the conditions contained in the plan were superseded by a 1995 zone change that had the legal effect of extinguishing the 1992 Master Plan (Exhibit H.55). Even if the Master Plan was still effective, the

applicant argues, it did not set future uses for Block 7 and in fact anticipated future club facilities and parking.

The resolution of this disagreement appears to turn on the applicability of PCC 33.700.110, which explains when prior conditional use approvals become outright permitted uses due to a change of zoning or imposition of new zoning by the City Council. PCC 33.700.110(B) states that the section applies to all prior quasi-judicial land use decisions “applied for after January 1 1981.” The 1992 Master Plan was certainly a quasi-judicial land use decision applied for and made after 1981. That master plan also imposed conditions on the development of MAC’s Salmon Street garage – although it was not itself a conditional use approval. PCC 33.700.110(B)(2)(b) states, “Use allowed by right. If the use is now allowed by right, the conditions of approval no longer apply.” The plain reading of these sections makes decisions like the 1992 Master Plan subject to PCC 33.700.110. Therefore, notwithstanding any language within the 1992 Master Plan which might otherwise determine when the plan was satisfied or no longer applicable, by operation of law, the 1995 zone change to CXd terminated the legal effect of all conditions imposed by the 1992 Master Plan.

The Hearings Officer agrees with the applicant, that even if the 1992 Master Plan were interpreted to allow conditional uses, the 1995 zoning map amendment which converted the Salmon Street garage into a permitted use triggered PCC 33.700.110(B)(2)(b) extinguishing any conditions that the 1992 Master Plan might otherwise have imposed.

Scope of Review

Numerous opponents argued that the proposed map amendments must be assessed based on the full range and potential for uses allowed in the CX zone, and that the analysis could not be limited to the 260-280 residential units, associated parking, and “MAC uses” for which the map amendments are requested (Exhibit H.5). BDS Staff concluded that with relevant conditions of approval, the review under the applicable criteria could be limited in scope. The applicant agreed, and as is noted the staff report, the applicant has promised to “record a restrictive covenant *** in favor of the City, limiting the use of the land (Block 7) to only the Apartments and MAC related uses, so that Block 7 may only be used for these uses forever.”

In a related argument, several neighbors argued that BDS Staff’s conclusion for many criteria that “with conditions” the proposal equally supports the CX zone, is flawed because those conditions have not yet been met. This is particularly true with regard to BDS Staff’s recommendation that the CCPR occur as a condition subsequent to the map amendments rather than a condition precedent. The Hearings Officer concludes that both BDS Staff and the City Council may limit the scope of a Comprehensive Plan and Zoning map amendment review if the record shows it is sufficiently certain that the underlying development concept will be the ultimate development under the new designation and zoning. PCC 33.800.070 allows for conditions to be imposed on any discretionary approval - “The City may attach conditions to the approval to all discretionary reviews.” The current proposal is a discretionary review process. I also agree with the applicant, that PCC 33.700.060 allows an applicant to agree to a restrictive covenant in favor of the City for whatever legal action the applicant proposes. Here, the applicant is on record both through testimony at the

hearing and through written submissions into the record, that the restrictive covenant will indeed limit future uses. Although some of the opponents have alleged that the wording of the proposed covenant contains loopholes, those arguments are insufficiently developed for the Hearings Officer to conclude that the covenant as proposed will be ineffective. Given the breadth of PCC 33.800.060, and the substantial evidence in the record, the Hearings Officer concludes that it is sufficiently certain that if the map amendments are approved, the ultimate development on the subject property will be limited as the applicant has promised. Therefore, the limited scope of review in the BDS Staff report is appropriate – particularly considering proposed revisions to condition C which in effect memorializes the proposed restrictive covenant. That revision is discussed in more detail below.

As to the related question regarding the sufficiency of the proposed conditions, it is not required that the applicant or staff demonstrate with absolute certainty that the recommended conditions will be met. It is permitted for the City to impose a condition of approval in order to ensure compliance with a criterion, or in this case a policy, if the substantial evidence in the record shows that the condition can or will be met. In the findings set forth below, the Hearings Officer concludes the staff's recommended conditions can be met.

In reaching the above conclusions, I must also reject FOGH's contention that the appropriate analysis is not a comparison between future development allowed in the RH zone and future development allowed under the CX, but rather a full analysis of the full development proposal "notwithstanding the kind of uses that would be allowed without the comprehensive plan and zone map amendment." Exhibit H.54. Particularly as to the residential uses allowed as of right in the RH zone, which are also allowed as of right in the CX zone, the Hearings Officer must conclude, because PCC Title 33 is an acknowledged planning document, that those uses and the associated impacts on the immediate vicinity are in compliance with all parts of the Comprehensive Plan.

Standard of Interpretation

The scope of the Hearings Officer's role in this recommendation is to offer a recommendation to the City Council. Nevertheless, when an interpretation of the policies identified below is required, the Hearings Officer's reading of the text of those policies is held to a different legal standard than will be the case when the City Council interprets those same provisions. The Hearings Officer's interpretation and resulting findings and conclusions must be correct as a matter of law. *McCoy v. Linn County*, 90 Or App 271 (1988), *Mackenzie v. Multnomah County*, __ Or LUBA __ (LUBA No. 2013-045, November 12, 2013). That standard requires that I understand the intent of the subject policies by primarily looking to the text and the context of those provisions. *PGE v. BOLI*, 317 Or 606, (1993). Thus, if a hearings officer is attempting to meet this legal standard, there is little room for interpretation or "bending" of the rules in order to reach a desired outcome – no matter how sympathetic the facts.

In contrast to the standard of review imposed on hearings officers' decisions, the standard of review imposed on decisions of local elected bodies, such as the City Council, is much lower and potentially more flexible. Under that standard, a land use decision made by the City Council need

merely be “plausible” in order to be upheld under the deferential standard set forth in ORS 197.829(1). *Clark v. Jackson County*, 313 Or 508 (1992) and *Siporen v. City of Medford*, 349 Or 247 (2010). For the purposes of this recommendation, I will implement the interpretive standard appropriate for Hearings Officers’ decisions, understanding that the City Council is not bound by my interpretations.

II. ANALYSIS

Site and Vicinity: The subject site is a 43,557 square-foot City block, known as “Block 7.” The site is comprised of 11 lots and is currently developed as a green space with lawn, shrubs, and deciduous trees as well as small on-site parking areas that provide approximately 10 total spaces. The site has signs posted that identify the property as owned and monitored by the MAC. The site and adjacent streets slope down from north to south and west to east. On the north side of SW Main is the MAC Salmon Street parking structure. Directly north of the parking structure is the 173,000 square foot MAC facility and adjacent Providence Park Stadium. North of the stadium are commercial and high-density residential projects that line W Burnside.

Properties to the west of the subject site are primarily developed with residential uses—multi-dwelling towers, courtyard apartments and single-dwelling residences. Some of the larger residential-like structures are occupied by legally-established nonconforming office uses. This area, from approximately SW 21st to Washington Park and W Burnside to SW Madison, is a designated historic district—the King’s Hill Historic District. The district reflects the architectural period of the 1880s to the 1940s.

A row of attached single-dwelling homes that reflect the 1980s Queen-Anne style line the south side of SW Madison, directly across from the subject site. These homes are not within the King’s Hill Historic District. The area south of the MAC properties is primarily developed with residential uses. At SW Jefferson/Canyon there are commercial properties—a car sales business, office building and the famous Goose Hollow Inn. To the east of the subject site is residential development which includes a multi-story residential building—The Legends and other housing. To the east of the MAC parking structure is the Zion Lutheran Church. East of SW 18th Avenue is a 10.9 acre Portland Public Schools facility—Lincoln High School with a large football/sports field and multi-story school building. Most of the properties that are east of SW 18th are developed with commercial and employment uses.

Current Designation and Zoning: The site is zoned RHd, High-Density Multi-Dwelling Residential zone with the “d” Design overlay zone, and is within the Central City Plan District and Goose Hollow Subdistrict. The RH zone has a matching Comprehensive Plan Map designation—High Density Multi-Dwelling. Density is not regulated by a maximum number of units per acre in the RH zone. Rather, the maximum size of buildings and intensity of use is regulated by floor area ratio (“FAR”) limits and other site development standards. Generally the density will range from 80 to 125 units per acre. Allowed housing is characterized by medium to high height and a relatively high percentage of building coverage. The major types of new housing development will be low, medium, and high-rise apartments and condominiums. Generally, RH zones will be well served by

transit facilities or be near areas with supportive commercial services.

The Design overlay zone, shown on the official zoning maps with the letter "d" map symbol, is intended to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value.

The Central City Plan District implements the Central City Plan and other plans applicable to the Central City area. These other plans include the Downtown Plan, the River District Plan, the University District Plan, and the Central City Transportation Management Plan. The Central City Plan district implements portions of these plans by adding code provisions that address special circumstances existing in the Central City area. The plan district includes standards for: uses, FAR, height, bonuses, transfer of development rights, and parking. For the subject site, the Plan District establishes a maximum FAR of 4 to 1, with up to 3 to 1 FAR available as "bonus" floor areas. The Plan District applies a height limit of 100 feet.

Proposed Designation and Zoning: The proposed zoning for the site is CXd, Central Commercial with a Design overlay. This zone implements the Central Employment map designation of the Comprehensive Plan.

The CX zone allows a mix of uses and is intended to provide for commercial development within Portland's most urban and intense areas. A broad range of uses is allowed to reflect Portland's role as a commercial, cultural and governmental center. Development is intended to be very intense with high building coverage, large buildings, and buildings placed close to together. Development is intended to be pedestrian-oriented with a strong emphasis on a safe and attractive streetscape. The Design Overlay Zone and the Central City Plan provisions will not change with the requested new designation and zoning.

Land Use History: City records indicate that prior land use reviews that applied to MAC-owned properties include the following:

- **CU 80-80:** Approval of Conditional Use for MAC Salmon Street Parking Garage.
- **Central City Plan (Legislative Project) was adopted in March, 1988.** The provisions of the Central City Plan District applied to the site. The MAC-owned sites that are located north of SW Main were mapped with the RH zone and the CXd Comprehensive Plan Map designation.
- **CU 11-90:** The Portland Hearings Officer approval of Conditional Use for 21st Avenue Garage and amendments to: (1) CU 80-80 decision, (2) MAC Master Plan and traffic plan.
- **CU 89-90:** The Hearings Officer approval of amendments to Master Plan.
- **Zoning Code Rewrite (Legislative Project) became effective Jan. 1, 1991:** The Zoning Code was amended to classify health clubs and membership clubs as Retail Sales and Service Uses.

Hence, the MAC facility became a nonconforming use. Prior to 1991, athletic clubs such as the MAC were permitted in the RH zone as Conditional Uses.

- **LU 91-00740 CU:** The Hearings Officer approved a new Master Plan for the MAC. This review fulfilled “Condition A” of CU 11-90.
- **LU 92-00813 MS:** Goals and Policies that addressed neighborhood relations, transportation and urban design that augmented the MAC Master Plan were approved through a Conditional Use Review. This fulfilled “Condition I” of LUR 91-00740 CU.
- **LUR 95-00743 ZC:** The Hearings Officer approved a zone change in compliance with the Comprehensive Plan Map designation, from RH to CXd, for Tax Lot 46, Section 33, T1N, R1E and Tax Lot 1 of Block 3 and 6, Amos N. Kings Addition, subject to the following conditions:
 - A. A new Traffic and parking analysis must be reviewed and approved through a Type III process prior to any development on this site other than the six uses approved in LUR 91-00740 MS and listed below:
 1. An addition of 50,000 square feet to the west end of the clubhouse for athletic and club-related activities.
 2. Remodel of baby sitting facilities in the Salmon Street parking garage.
 3. Enclosure of open area for storage at the west end of the Salmon Street parking garage.
 4. The use of 40 parking spaces in the 21st Avenue parking garage for 90th percentile events after 5:00 pm.
 5. Development of residential housing on Block 2 (This has occurred).
 6. Development of mixed use or residential housing on Block 7.

The traffic and parking analysis may be based on the proposed development or may include the range of uses allowed in the CX zone. The approval criteria for the review will be that the transportation system is capable of supporting the proposed use or uses allowed by the zone or will be capable of supporting those uses by the time development is complete, as required by PCC 33.855.050.B.

- B. All uses on this site are subject to the transportation and parking mitigation plan and demand management plan set out on pages 30-43 of the Master Plan. In addition, the Multnomah Athletic Club will report on an annual basis the results of the Event Parking Program.
- **LUR 95-00873 MS:** The Hearings Officer denied a request to reconsider and clarify the status of the MAC Master Plan.
- **LU 10-116154 TPA:** A Type III Traffic and Parking Analysis was approved for some “PGE Park” Major League Soccer [MLS] renovations on the MAC site, which is the CXd portion of the site. This review was required per “Condition A” of LUR 95-00743 ZC.

- **1996- Present:** There are numerous Design Reviews that have been approved to address proposed improvements to the MAC facilities. None of the decisions applied directly to the Block 7 property.

BDS Staff Comments: *The applicant has submitted a memo (Exhibit A.9) that explains that the 1992 MAC Master Plan lost its status/applicability when the MAC facilities—clubhouse and parking structures were rezoned via the 1995 decision (LUR 95-007543 ZC). Condition A of the 1995 decision identified “mixed-use or residential development on Block 7.”*

Summary of Applicant’s Statement: The application includes the following:

In 2011, Mill Creek began discussions with the MAC to purchase Block 7 for a high density apartment project as contemplated by the existing RHd zoning. After further discussions, the parties determined that in addition to the proposed apartment project, Block 7 would also provide the perfect opportunity to remedy the MAC’s inadequate parking situation.

Mill Creek and the MAC initially met with City staff and neighborhood representatives to develop a proposal for the apartment project and MAC parking under the existing RH zoning. However, this ultimately was found to be unfeasible because the additional MAC parking, classified as accessory to a Retail Sales and Service use, would be limited to 20% of the net building area. PCC 33.120.100(B)(2). The Applicant considered a Comprehensive Plan change and zone change to RX but the RX zone limits the amount of Retail Sales and Service use to a level which would not accommodate the MAC Parking.

In order to preserve all other RH zoning characteristics of the development, Mill Creek and the MAC propose to execute a restrictive covenant in favor of the City. The restrictive covenant will limit the use of Block 7 to only the Apartments and the MAC related uses forever. The restrictive covenant will bind Block 7, be binding on all future owners of Block 7 and be fully enforceable by the City. A proposed draft of this restrictive covenant is attached as Exhibit C.

The Applicant originally planned to locate the driveways accessing the MAC Parking and a truck loading dock on the west side of SW 19th Avenue, directly across from The Legends residential building. Residents of The Legends expressed strong objection to this proposal in several neighborhood meetings. In response to those objections, Mill Creek has redesigned its building and has eliminated the originally planned driveways and truck loading dock so that the uses at ground level will be apartments. The access solution consists of a vehicular and pedestrian tunnel which will be located under SW Main Street and will connect the Block 7 MAC Parking underground to the existing MAC parking garage, enabling cars to access the Block 7 MAC Parking through the existing accessways of the existing parking

garage. This change in response to concerns of residents of The Legends will cost approximately \$1.0 million and will be shared by the Applicant and the MAC. Applicants' Traffic Impact Analysis prepared by Kittelson and Associates ("TIA") establishes that the accessways to the existing parking garage are adequate to handle the additional traffic from users of the Block 7 MAC Parking.

The Applicant requests a Comprehensive Plan Map amendment from High Density Multi-Dwelling to Central Commercial and a corresponding Zoning Map amendment from High Density Residential (RH) to Central Commercial (CX). The design review (d) overlay designation will be retained on the site.

The proposed development project consists of 260-280 multi-family residential units and the associated 191 below-grade parking stalls (the "Apartments"), an additional 16 studio apartments for the exclusive use of Multnomah Athletic Club ("MAC") members, reciprocal members and guests, (the "MAC Units") and an additional 225 below-grade parking stalls for the exclusive use of the MAC (the "MAC Parking"). The MAC Units and the MAC Parking are referred to collectively as the "MAC Uses." The Applicant will record a restrictive covenant (as allowed under Portland Municipal Code Section 33.700.060) in favor of the City, limiting the use of the land (Block 7) to only the Apartments and MAC related uses, so that Block 7 may only be used for these uses forever. All other uses that would be allowed under the requested comprehensive Plan designation and zone change would be prohibited.

The Apartments are allowed as an outright permitted use under the current Comprehensive Plan designation of High Density Multi-Dwelling and the current zoning designation of RH. Thus, the Apartments can be built without the Comprehensive Plan change and zone change sought by this application, subject to Design Review.

The reason for the changes requested in this application is based solely on the plan to develop the MAC Uses. The Multnomah Athletic Club's existing facilities (clubhouse and existing parking garage) are designated as Central Commercial in the Comprehensive Plan and as CX under the zoning code. The specific use, an athletic club, is categorized as "Retail Sales and Service." (PMC 33.920.250(c)(3)). The MAC Uses on Block 7 are accordingly uses accessory to a Retail Sales and Service use and are themselves a Retail Sales and Service use. The applicant considered a Comprehensive Plan change and zone change to RX zoning which allows a limited amount of Retail Sales and Services Use. Under PMC Section 33.510.117(D), "Retail Sales and Service and Office Uses in the RX Zone," the amount of floor area of a Retail Sales and Services use in a new multi-family development is limited to "20 percent of net building area." The MAC Use's square footage substantially exceeds 20 percent of the net building area of the structure.

Thus, in order to allow the MAC Uses, the requested Comprehensive Plan change and zone change are required.

Once the Comprehensive Plan and Zoning Map amendments are approved, Mill Creek intends to submit additional applications for design review and Central City Parking Review for the project. (Exhibit A.1)

There are several reasons why we believe it would be imprudent to file a concurrent CCPR (*Central City Parking Review*) application:

First the Code nowhere explicitly authorizes the filing of a CCPR (or any other non-zone change land use review) when the approval requested would not be allowed under the then-existing comprehensive plan designation and zoning. This would be the case if we file a concurrent CCPR because the parking requested is a Retail Sales and Service Use, which is not allowed under the existing Comprehensive Plan designation and zoning, given the amount of building space this parking would utilize.

In addition, PMC 33.700.070(C) which applies to "situations where the Code is silent," seems to address the current situation and provides: "Proposals for uses, development, or land divisions when the Code is silent or where the rules of this section do not provide a basis for concluding that the proposal is allowed are prohibited."

Second, PMC 33.700.070(D)(1)(e) provides that "an adjustment, conditional use, or other land use review may not be requested in order to allow an exception to the regulation in question." Applying for a CCPR approval of 225 parking stalls now, before a Comprehensive Plan and zone change allowing such a use, would in effect be seeking an exception from the current plan designation and R-H zoning that would prohibit the 225 parking stalls.

Third, PMC 33.810.030 allows concurrent Comprehensive Plan map changes and zoning map changes, but only if the zoning map change is consistent with the comprehensive map change. (To the same effect is PMC 33.855.030.) The only logical inference from this Code section is that concurrent applications for other land use reviews, which are not consistent with the then existing comprehensive plan and zoning designations, are not allowed. This inference is consistent with and required by PMC 33.700.070(C) quoted above.

Fourth, PMC 33.700.080(c) provides: "Applications will not be accepted for building permits or land use reviews based on regulations or zone changes that have been approved but not yet implemented." However, pre-application conferences may be requested and held. Clearly a CCPR is a "land use review" (see PMC 33.808). The approval of 224 parking stalls under a CCPR when prohibited by the existing plan designation and zoning would

not be allowed until a permissive zone change was approved.
(Exhibit A.11)

BDS Staff Response: *Staff respectfully disagrees with the assertion of the applicant that the Portland Zoning Code or State land use laws implicitly or explicitly preclude the bundling of reviews. Concurrent reviews are allowed (PCC 33.730.042.A). A CCPR could be submitted for concurrent review with the CP ZC request. The recommendation and final decision of the CCPR would be dependent upon the final decision—approval or denial of the requested map change.*

There are numerous examples of land use reviews that combined a map change request with other reviews such as a land division, environmental review, and adjustment. Because the CCPR will be heard by the Hearings Officer, there would be efficiencies in combining the CCPR with the CP ZC. However, staff understands the certainty and focus that comes with separate, sequenced applications. There is nothing in the Zoning Code that requires an applicant to submit for all land use reviews at the same time.

*Throughout this report, staff speaks to the proposed MAC parking only as a possible future improvement on Block 7. Approval of the CP ZC will provide only the **opportunity** for the applicant to request approval, through a Central City Parking Review, of Preservation Parking on the site.*

Agency Review: A “Request for Response” was mailed March 31, 2014. The following responses have been received:

The Bureau of Environmental Services (BES) responded with development-related requirements that would apply at Building Permit Review. The BES findings that address relevant approval criteria are provided below (Exhibit E.1).

The Portland Bureau of Transportation (PBOT) responded with findings that address the transportation-related approval criteria (Exhibit E.2). The PBOT response is inserted into this report under applicable criteria.

The Water Bureau responded with development-related requirements that would apply at Building Permit Review. The Water Bureau findings that address criterion 33.855.050.B are inserted into this recommendation (Exhibit E.3).

The Fire Bureau and Police Bureau address criterion 33.855.050.B (Exhibits E.4 and E.5).

The Site Development Section of BDS responded with the following comments:

Site topography. The site contains relatively steep slopes.

Geotechnical. The site is located on a large pre-historic landslide according to *Interpretive Map 33, Landslide Inventory Map of the Northwest Quarter of the Portland Quadrangle, Multnomah and Washington Counties, Oregon, 2010*. Therefore, at

the time of building permit application, a soils report stamped by a registered design professional will be required. The report must include a quantitative slope stability analysis of the larger historic landslide and the localized slopes. The analysis will need to demonstrate adequate factors of safety for static and seismic conditions...

Floodplain. The site is not within the 100-year floodplain.

Stormwater discharge and treatment. The Bureau of Environmental Services will review the project for conformance to the 2008 Stormwater Management Manual.

Septic system. The site was previously developed with multiple residences. At the time of building permit application, please complete a Disclaimer for Existing On-site Sewage Disposal System. The form is available from the Permit Center or at the Bureau of Development Services website under the Applications/Handout tab and Alphabetical List (all) "Disclaimer for Existing On-site Sewage Disposal System - 3/15/12"

Erosion control. Erosion prevention and sediment control requirements found in Title 10 apply to both site preparation work and development. Full compliance with the erosion control requirements of Title 10, as well as maintenance of the erosion control elements, such as silt fences on private property, storm drain inlet protection and bio bags in the public right-of-way, is the responsibility of the property owner, the developer of the land division and the builders of structures on the individual lots. Please refer to the City of Portland *Erosion and Sediment Control Manual* for additional information regarding erosion and sediment control requirements.

Site Development takes no exception to the proposed Comprehensive Plan Map and Zoning Map Amendment to from the High Density Multi-Dwelling designation and zone (RH) to the Central Commercial designation and zone (CX). (Exhibit E.6)

The Life Safety Plans Examiner Section of BDS responded with the following comments: A separate Building Permit is required for the work proposed (Proposed high density structure) and the proposal must be designed to meet all applicable building codes and ordinances. More information regarding building code requirements can be obtained by visiting the Bureau of Development Services Development Services Center. It is recommended the applicant contact the project Process Manager to arrange a Preliminary Fire and Life Safety Meeting (Exhibit E.7).

The Urban Forestry, Bureau of Parks-Forestry Division responded with a comment of "No Concerns" (Exhibit E.8).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 23, 2014. Prior to May 5, 2014, a total of 53 written responses have been received from either the

Neighborhood Association or notified property owners in response to the proposal. Some of the concerned neighbors sent multiple letters. It has been reported to staff that the GHFL Board voted to remain neutral. However, a committee formed by the neighborhood association—the GHFL Block 7 Planning Committee submitted a detailed report opposing the proposal (Exhibit F.32).

The issues/criticisms raised in the letters of opposition (Exhibits F.1-F.24 and F.26-F.53), are summarized, as follows:

- The open space that serves as a dog park and natural area should be retained.
- The proposed building will be too large in height and bulk.
- The site is within a landslide hazard area and will be geologically unsafe during and after construction.
- This project reflects a history of broken MAC promises.
- The MAC short-stay studios (hotel) will create instability in the residential neighborhood.
- The proposed MAC parking will adversely impact traffic, safety and air quality.
- The MAC has ample parking if managed properly.
- The proposal conflicts with most adopted City policies.

One letter of support has been submitted. The letter states that high density residential development is currently allowed on the site and that additional parking that will serve the MAC will improve the parking situation for current residents, particularly the historic homes that do not have on-site parking (Exhibit F.25).

OVERVIEW OF STAFF'S APPROACH TO THIS RECOMMENDATION

This report contains the following parts, each of which examine compliance with applicable criteria:

- **Part A Comprehensive Plan Map Amendment**
- **Part B Zoning Map Amendment**

Overview of Comprehensive Plan Map Amendment Review Methodology

In 2008, the Hearings Officer outlined for City Council interpretative options and constraints related to the Comprehensive Plan Map Amendment process (Recommendation to Council for LU 05-138386 CP ZC – Colwood National Golf Course). This approach was followed for the 2012 Colwood application –LU 12-213885 CP ZC EN and for LU 13-109305 CP ZC (NE Fremont and Williams). This staff recommendation follows the Hearings Officer's analytical methodology used in previous cases.

The Hearings Officer explained his methodology, below, for LU 13-109305 CP ZC as follows:

The Portland City Zoning Code (hereafter referred to as "PCC") section 33.730.040.A requires the Hearings Officer to review comprehensive plan map amendment applications and make a recommendation to City Council. The Hearings Officer, in a comprehensive plan map amendment case, does not make a decision. City Council is the review body that issues a decision (most

quasi-judicial cases heard by City Council are appeals from a Hearings Officer decision.)

PCC 33.810.050.A.1, the sole relevant approval criterion for this case, states: "A. Amendments to the Comprehensive Plan Map that 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 polices and on balance has been found to be equally or more supportive of the Comprehensive Plan as a whole than the old designation."

In a typical quasi-judicial hearing City Council must decide, based upon the evidence in the record, whether some specific requirement is met or satisfied; i.e. is a site adequately served by public services or whether a proposed development will negatively impact the character of the surrounding neighborhood?

In the typical land use hearing, if City Council determines a specific approval criterion requirement was not satisfied, the application would need to be denied or (if possible) approved with a condition. In a comprehensive plan map amendment case, the relevant approval criterion requires the decision maker to review and **balance** a large number of widely divergent goals and polices. In a comprehensive plan map amendment case, it is likely some of the relevant goals and policies will be met/satisfied while one or more others are not.

Following are matters that Council may wish to consider in this comprehensive plan map amendment application.

Burden of Proof. PCC 33.800.060 states, "The burden of proof is on the applicant to show that the approval criteria are met. The burden is not on the City or other parties to show that the criteria have not been met."

Relevant Comprehensive Plan Policies. PCC 33.810.050.A.1 requires the City Council to determine which of the Comprehensive Plan polices are "relevant" to this case.

Comparison. PCC 33.810.050.A.1 requires, for each relevant policy a comparison. This section of the code asks City Council to determine whether or not the proposed comprehensive map amendment classification is equally or more supportive of the Comprehensive Plan policy than the existing/current classification.

On Balance. The "on balance" language of PCC 33.810.050.A.1 is perhaps the most challenging portion of the approval criterion to apply on a case-by-case basis. The Oregon Court of Appeals, in *Waker Associates v. Clackamas County*, 111 Or App 189, 194 (1992), stated that land use decision makers, "will often be confronted

with situations, like this one, where a use is compatible with some of the goals and incompatible with others. It is not possible to approve or disapprove a use in those situations without engaging in a balancing exercise." (See also *Columbia Riverkeepers v. Clatsop County*, 238 Or App 439 (2010))

Three City of Portland cases directly address City Council's responsibility with respect to balancing goals and policies. The Oregon Land Use Board of Appeals ("LUBA") stated, in *Welch v. City of Portland*, 28 LUBA 439 (1994), "under *Waker*, so long as the record reflects that plan policies were considered and balanced, this is all that is required." LUBA held, in a separate land use case that "the choice between conflicting evidence belongs to the City." *McGinnis v. City of Portland*, 25 Or LUBA 376 (1993) Finally, in *St. Johns Neighborhood Assn. v. City of Portland*, 34 Or LUBA 46 (1998), LUBA confirmed that the City Council was permitted to balance competing plan policies.

The Hearings Officer believes that the above-cited cases give City Council broad discretion in establishing how to balance the relevant Comprehensive Plan policies. The Hearings Officer believes that Council may ascribe some Comprehensive Plan policies more weight than others. The Hearings Officer believes Council is not required to keep a "scorecard" of how many Comprehensive Plan policies are "equal or more supportive" and how many are "less supportive." The Hearings Officer believes that City Council may place more weight, in the balancing process, upon one or more policies as compared to other relevant policies.

The conclusion that a specific policy is either "equal" or "more supportive" or "less supportive" is also quite subjective. In the end City Council must decide whether, on balance, the proposed Comprehensive Plan map amendment request is "equally or more supportive" of the relevant policies.

Similar to recommendations prepared by the Hearings Officer to City Council, the BDS staff report includes a Table (Exhibit G.4) that identifies the relevant Goals and Policies and identifies if the requested Comprehensive Plan Map designation equally supports, better supports or does not support applicable policies. Further, this chart identifies if the policy is equally supported with a recommended condition of approval. If the Hearings Officer determines that a condition(s) is not appropriate/necessary, staff suggests the Hearings Officer reconsider the balancing process. Further, the Hearings Officer may ascribe more weight to some policies over others, depending upon the type of project or geographic relevance. Staff does not prioritize/weigh the policies in this analysis.

ZONING CODE APPROVAL CRITERIA

PART A. COMPREHENSIVE PLAN MAP AMENDMENT

The Applicant is requesting a Comprehensive Plan Map amendment from High-Density Multi-Dwelling Residential to Central Commercial. For the requested Comprehensive Plan Map

amendment to be approved, the Applicant must demonstrate that the approval criteria in Section 33.810.050 of the Portland Zoning Code are met.

33.810.050 Approval Criteria

A. Quasi-Judicial. Amendments to the Comprehensive Plan Map that 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 applicant is requesting a Comprehensive Plan Map Amendment for an approximately 43,000 square foot vacant (landscaped) site from High Density Multi-Dwelling to Central Commercial. The two designations are described in Policy 10.4 of the Comprehensive Plan as follows:

High Density Multi-Dwelling

This designation allows high density multi-dwelling structures and structures of an intense scale. It is intended for areas with good public services including transit, no development constraints, and a close proximity to commercial areas. Maximum density is based on a floor area ratio, not on units per square foot basis. Densities will range from 80 to 125 units per acre. The corresponding zone is RH.

Central Commercial

This designation is intended to be the city's most physically intense commercial designation. The have the highest designation is intended for the most developed parts of the city which levels of public services. It allows a full range of commercial uses. The designation encourages development that is supportive of a pedestrian orientation. The corresponding zone is CX. The Design overlay zone will be applied in conjunction with the CX zone.

The following analysis evaluates the request against all of the Comprehensive Plan goals, policies and objectives that are relevant to this site. Based on this analysis, it is found that, on balance, the requested Central Commercial designation for the site is equally supportive of the Comprehensive Plan as the existing designation:

Goal 1 Metropolitan Coordination

The Comprehensive Plan shall be coordinated with federal and state law and support regional goals, objectives and plans adopted by the Columbia Region Association of Governments and its successor, the Metropolitan Service District, to promote a regional planning framework.

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 relevant titles in that section are summarized and addressed below.

Overall, staff has found that the requested Central Commercial designation will have little or no effect on the intent of these relevant titles or these titles will be met through compliance with other applicable City regulations. The project is consistent with Metro's regional planning framework, and therefore the requested Comprehensive Plan Map Amendment and Zone Change is consistent with Goal 1, Metropolitan Coordination, of the City's Comprehensive Plan.

Urban Growth Management Functional Plan

Title 1 - Requirements for Housing and Employment Accommodation

This section of the Functional Plan facilitates efficient use of land within the Urban Growth Boundary (UGB). Each city and county has determined its capacity for providing housing and employment which serves as their baseline and if a city or county chooses to reduce capacity in one location, it must transfer that capacity to another location. Cities and counties must report changes in capacity annually to Metro.

Findings: The requested Comprehensive Plan Map amendment will ensure that the subject property contributes to increasing development capacity within the Urban Growth Boundary. The proposed Central Commercial designation and its corresponding Zoning Map designation, CX, will provide an opportunity for residential development consistent with the current RH allowance, but will also provide an opportunity for accessory parking to meet the demands of a prosperous Retail Sales and Service use- the MAC. The CX zone allows a myriad of uses including retail, office and residential use. However, the applicant has submitted a proposal that will limit the development on the site to include residential units built to match the capacity (floor area) of the RH zone and has limited Retail Sales and Service uses—16 short-stay (hotel) studios and accessory Retail (MAC) parking.

The requested change will not create housing or employment capacity conflicts. The development of a 43,000+ square foot vacant lot within the Central City Plan District will likely create opportunities for additional residential and employment opportunities. This proposal complies with the intent of Title 1.

Title 3 - Water Quality and Flood Management

The goal of the Stream and Floodplain Protection Plan (Title 3) is to protect the region's health and public safety by reducing flood hazards, controlling soil erosion and reducing pollution of the region's waterways.

Findings: Compliance with this title will be achieved through the implementation of the Stormwater Management Manual and other development regulations in the future, at time of Building Permit review. BES has analyzed the applicant's stormwater report that was submitted as part of the application. BES finds that there is sanitary and stormwater sewer capacity to address the anticipated development that is allowed in the CX zone (Exhibit E.1). The City's stormwater management regulations can be met. The Site Development Section of BDS determined that because the site is located on a large pre-historic landslide, and because it contains relatively steep slopes, at time of building permit application a soils report which includes slope stability analysis will be required. Also, City Title 10 erosion control requirements will be required under an issued Building Permit (Exhibit E.6). This project, like many other projects in the Southwest Hills and other steeply-sloping sites in Portland, must comply with development standards that address stormwater management and geotechnical, structural and erosion control requirements. These provisions that are in place are intended to satisfy this Metro Title.

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 principal centers of urban life in the region. Title 6 calls for action and investment to enhance their roles in the region.

Findings: The applicant states that the Central City Plan District applies the necessary regulation and that the requested map change does not alter the provisions of the plan district. The GHFL Block 7 Planning Committee contends that "free MAC parking will increase reliance on the automobile, discourage ride-sharing, cycling, walking and public transit, and thereby fail to protect the region's and the City's investments in high capacity transit."

This land use review application does not include a CCPR which will be required for non-residential parking that supports an existing use—the MAC. This application, if approved, will not approve the MAC parking but will only allow the applicant to request additional accessory (Retail) parking in a subsequent review. Numerous Comprehensive Plan policies, discussed below, that provide the basis for the Central City Transportation Management Plan and the CCPR were developed as key actions to enhancing the role of the region's center. The site will remain within the Central City Plan District and subject to its current regulations. Staff finds this request is equally supportive of this Metro Title.

Hearings Officer Findings: Opponents argue that the CX zone will promote more reliance on the automobile and reduce TriMet ridership (Exhibit H.7). The applicant argues that the proposal will not generate any new vehicle trips, and therefore, generally will not have an impact on transit ridership.

The focus of Title 6 is on the center, corridor and main street design in the region. While the by-product of such design is to encourage the use of transit around station areas, it is not in and of itself a mandate to increase transit use. The opponents' position that the mere

existence of 225 new parking spaces allocated to the MAC will generate new vehicle trips is discussed in more detail under Goal 6 Transportation. Those findings are incorporated here by this reference. The Hearings Officer's conclusion as to that issue is that if new or "latent demand" trips are generated by the applicant's proposal, the increase in vehicle trips is not likely to be significant.

Because the CX zone will allow essentially the same residential uses, and will not change the configuration of the "center, corridor and main street urban design" in the vicinity, the Hearings Officer agrees with BDS Staff that the proposal is equally supportive of Title 6.

Title 7 – Housing Choice

This framework plan calls for the establishment of voluntary affordable housing production goals to be adopted by local governments.

Findings: The proposed future building will include 260-280 residential units. This proposed request does not preclude the development of affordable housing at this location and in no way decreases the opportunity for affordable housing when compared to the residential development that could be constructed through the RH zone provisions. The proposal is equally supportive of this Title.

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 PCC 33.730.030 (Type III Procedure). In addition to notifying the affected City-recognized organizations and property-owners within a 400 foot radius of the site, a notice of the proposal has also been sent to Metro and to the Department of Land Conservation and Development. Therefore, the proposal is consistent with this Title.

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 public services. This title focuses upon the proximity of residential neighborhoods to commercial services, parks, and schools as the primary means of reducing air pollution and traffic congestion.

Findings: The applicant states that the:

Metro Title 12 provides two implementing recommendations. First, local jurisdictions are encouraged to designate one or more Neighborhood Centers to make commercial retail services more accessible to residents in both inner and outer neighborhoods. Metro Code 3.07.1230. Second, local jurisdictions are required to provide access to parks and schools by adopting level of service standards. Metro Code 3.07.1240. Because Mill Creek's proposal does not involve

any designated park, school, or neighborhood center, Title 12 is not impacted by the requested map amendments.
(Exhibit A.1)

Concerned neighbors have raised numerous issues regarding the impacts to the existing residential neighborhood. The GHFL Block 7 Planning Committee states that, "The proposal escalates parking and traffic congestion which elevates noise and air pollution."

The proposal is subject to review and evaluation against existing and future demand on public services, and whether there are adequate levels of same to support the proposed re-designation and zoning pattern. To the extent that the proposal meets the criteria found at 33.855.050.B, as discussed below, the proposal is consistent with the intent of this Title. Also, this Title includes requirements that ensure that commercial services are conveniently located for residential areas and that there are schools and parks or open spaces to serve the local residential community. The subject site is within approximately 6 blocks, less than a half mile away from the 400-acre City-owned Washington Park facilities, within walking distance of numerous commercial services and within a block of a public high school—Lincoln High. The proposal is equally supportive of this Title.

Hearings Officer Findings: The BDS Staff findings adequately capture the opponents' arguments with regard to Title 12. Here, the opponents do not recognize the narrow language set forth in Title 12. The proposed change from RH to CX will not materially change the neighborhood residents' access to commercial and retail services, nor will the proposal adversely impact the neighbors' access to parks. Although there was some testimony regarding the potential loss of open space represented by Block 7, the record does not demonstrate that the subject property has been designated for public park use. As a piece of private open space zoned for future development, the proposed map amendments and development concept cannot be viewed as a loss of park or open space.

The Hearings Officer agrees with BDS Staff that the proposal is equally supportive of Title 12.

Title 13- Nature in Neighborhoods

The purposes of this program are to conserve, protect and restore a continuous ecologically viable streamside corridor system, from the streams' headwaters to their confluence with other streams and rivers and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and to control and prevent water pollution for the protection of the public health and safety and to maintain and improve water quality throughout the region.

Findings: The site currently reflects a natural setting, with lawn, trees and shrubs and very little impervious area. However, the site is not a designated open space and is not located in an environmental or greenway overlay zone and is not located in a Metro identified "Habitat Conservation Area." Nor is it within a floodplain. Water quality requirements, via the City's Stormwater Management Manual requirements will be addressed at building permit

review, as noted above. Therefore, staff concurs with the applicant that this Title is not applicable.

Goal 2 Urban Development.

Maintain Portland's role as the major 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 proposed change will achieve a project that provides housing—260 to 280 residential units, short-stay studios (hotel) for guests of the MAC and an opportunity for additional parking to serve the MAC which is a large employer. The application states that “the proposal will fully preserve the residential character contemplated under the current RH zoning designation” and the MAC parking would remedy the current parking and traffic deficiencies and therefore “both residents and visitors to the Goose Hollow neighborhood would benefit from Mill Creek’s proposal.”

Numerous letters of opposition raise concerns about negative impacts to the residential character of the Goose Hollow residential area. The GHFL Block 7 Planning Committee wrote:

Goose Hollow is a historic district consisting of a considerable number heritage homes. The MAC/Mill Creek proposal for Block 7 would seriously undermine Goal 2's mission to retain this character of this neighborhood. Executing a zone change on Block 7 from "RH" to "CX" would support a public policy allowing the building of a commercial parking garage in the middle of the residential neighborhood, thereby compromising the character of this neighborhood, and lowering the quality of life for all its residents. Although Block 7 is not officially "designated" an open space, it has been freely used as such for over 30 years, neighbors enjoying a variety of large shade trees, grass, and an assortment of flowering plants, birds and small animals. Block 7 has made an enormous contribution to the quality of life in the neighborhood. A rational plan for development of the block would be to set aside at least a portion of the property as a green space while permitting high-density residential development with smaller buildings of comparable size to those already present in the neighborhood, such as the Four Seasons or Royal Manor condominiums. The submission presents a relatively massive 9-story block structure with no setbacks from the sidewalks. Other factors compromising Goal 2 conformance by Mill Creek include traffic congestion, pollution, on street parking problems, mass of the structure...(Exhibit F.32)

The property is privately-owned and designated for development. As staff's policy analysis shows, there is no basis for this decision to require that a portion of the site must be set aside as an open space. Because the site is in the Central City Plan District, the height limit is 100

feet and the maximum FAR, with bonuses, is 7 to 1. The proposed development will have 191 accessory parking spaces with access into the below-grade parking structure from the streets that front the building. If parking is developed to support the MAC facility, the applicant states that the access (entrance) to the parking will not occur on the frontages of the subject site. Maintaining the residential character of the building and the nearby local service streets is essential.

To address transportation-related approval criteria, staff recommends the following conditions to ensure the future development is compatible with the residential development that is located west of SW 20th and south of SW Main Street: (1) Vehicle access for parking and loading that is not accessory to the residential development is prohibited from the adjacent streets that front the subject site; (2) The subject site is limited to a maximum of 296 dwelling units, with up to 16 being used as short-stay (hotel) studios to serve the MAC; (3) If reviewed and approved through a future Type III Central City Parking Review, non-residential parking on the subject site is limited to a maximum of 225 parking spaces that must be constructed below street grade for use by the MAC; and (4) Prior to the submittal of the Central City Parking Review application, the applicant must prepare a Parking Management Plan and a TDM Plan.

The applicant has submitted a draft covenant that is intended to provide certainty in the uses and level of intensity (number of units and parking spaces) that is planned on the site. A covenant is generally a tool that is used between various/disparate property owners. For this land use review, conditions that respond to the approval criteria are the appropriate tools in setting parameters for approval. Included in the application were schematic illustrations of a proposed 9-story residential building. However, the applicant states the building elevation drawings “will be subject to further revision through the design review process.” Given the required separate review, this staff report does not speak to the specific design—bulk, configuration, and materials. Lastly, PBOT staff notes that a proposed tunnel to connect the existing MAC garage to the proposed below-grade MAC parking on the site will require a separate Major Encroachment Permit that must be submitted to City Council for approval. This application does not include the separate permit request.

Below, as provided under findings of the relevant Goal 2 policies, staff finds that with conditions, the proposal equally or better supports these policies.

Hearings Officer Findings: Almost all of the opponents’ arguments in connection with Goal 2 Urban Development find fault with BDS Staff’s determination that the proposed map amendments can be conditioned to ensure compliance with the applicable policies. As noted in the Hearings Officer’s Overview, limiting the scope of analysis to the applicant’s development concept and imposing conditions is permitted under the City code. To the extent that the proposed conditions can feasibly meet the intent of the associated policies, they can be relied upon to demonstrate compliance with the applicable criteria.

Policy 2.1 Population Growth

Allow for population growth within the existing city boundary by providing land use opportunities that will accommodate the projected increase in city households by the year 2000.

Findings: As discussed later in this recommendation, this proposal will maximize the Central City Plan District development standards that regulate floor area and building height. The proposal will include 260-280 housing units which exceeds the minimum requirement of the RH zone of 1 dwelling per 1,000 square feet of site area—43 units and will exceed the minimum of 194 units (potential) required to address Policy 4.2, the City's "no net housing loss" policy. Because the applicant intends to develop a project that will achieve up to approximately the same number of residential units that would be allowed with the current designation, the proposal equally supports this policy.

Policy 2.2 Urban Diversity

Promote a range of living environments and employment opportunities for Portland residents in order to attract and retain a stable and diversified population.

Findings: In addition to providing additional housing, the requested designation will allow a hotel use that is intended to serve the adjacent MAC facility and will provide an opportunity for additional parking to support MAC's existing commercial activities. Staff concurs with the applicant's response that "the development contemplated by this application is exactly the kind of efficient use of land that is key to continuing to promote the Central City and Goose Hollow district as a vibrant place to live and work." The proposal equally supports this policy.

Hearings Officer Findings: The opponents argue that the 16 proposed MAC hotel suites and comparatively small size of the residential units envisioned will promote a transient rather than stable residential community (Exhibit H.7). The applicant argued at the hearing and in several written submissions that the CX zone will allow the same density and configuration of residential uses as does the RH zone (Exhibit H.10g). The Hearings Officer agrees with the applicant. The small size rental units that the neighbors assert will result from the proposal could also occur under the current zoning. As to the hotel units, the record does not contain sufficient substantial evidence to conclude that they will have a significant adverse impact on "a range of living environments" in the vicinity. The Hearings Officer also disagrees with the neighbors' assertions that this policy has a relevant connection to the proposed MAC parking spaces. On balance, the proposal equally supports this policy.

Policy 2.6 Open Space

Provide opportunities for recreation and visual relief by preserving Portland's parks, golf courses, trails, parkways and cemeteries. Establish a loop trail that encircles the city, and promote the recreational uses of the city's rivers, creeks, lakes and sloughs.

Findings: Numerous nearby neighbors object to the proposal as the park-like site will be developed with a high-density residential building. Staff concurs with the applicant's

response, which states, "Although the Block 7 property is presently vacant and undeveloped, it is not zoned or otherwise designated as open space. More importantly, high density residential development is fully allowed on the subject property under the current plan and zone designations. The proposal to convert the site to a Central Commercial designation will therefore not impact any open space policies." The proposal equally supports 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 proposal will result in a high-density housing project with a small number of short-stay studios and the opportunity for the MAC to in the future propose parking, on the site, that would support the MAC facilities. Letters of opposition state that the hotel use will destabilize the residential area. The GHFL Block 7 Planning Committee states that, "The commercial parking component of this proposal compromises every facet of residential life in the Block 7 neighborhood by exacerbating air and noise pollution impacts, heightening dangers for pedestrians and bicyclists, and maxing out the residential road and transportation infrastructure, among others."

Given that this proposal will provide the opportunity for parking that will be accessory to retail use(s) and that the applicant has not submitted for a Central City Parking Review that provides additional analysis regarding the number of allowed parking spaces or the impacts to the surrounding area, staff cannot find that this application equally or better supports this policy.

Hearings Officer Findings: The primary reason that BDS Staff did not find the proposal supportive of this policy is that a CCPR has yet to be completed for the proposal. The issue of when the CCPR should have or will be done is recurrent in both the staff report and the neighbors' objections. As to that issue, the Hearings Officer finds that the proposed condition requiring a future CCPR is reasonable. Proposed Condition D. requires a CCPR through a Type III procedure to allow for up to the desired 225 parking spaces. There is little, if any, credible evidence in the record to show that it is not feasible for the applicant to comply with the requirements of PCC 808.100. It is also worth noting that the CCPR analysis is not an all or nothing equation. While MAC may desire a maximum of 225 parking spaces, the CCPR may result in a lower number.

Policy 2.9 is primarily directed at allowing a range of "housing types," not the impact of associated parking. Both the neighbors and staff appear to conflate the objective of providing housing types with "protecting" residential neighborhoods. Both the existing RH zone and the CX zone allow for, and for the CX zone requires, at least 194 residential dwelling units for the subject property. That fact alone demonstrates that the application equally supports a range of housing types.

Neither this policy, nor the evidence in the record, shows an absolute correlation between increased off-street parking and a reduction in “protecting” residential neighborhoods. Again, the neighbors believe strongly that if the 225 additional off-street parking spaces are built, a consequent substantial increase in total and peak vehicle trips will absolutely occur. As described in more detail in the findings for Goal 6 Transportation, the Hearings Officer disagrees with that assertion. Here, I am persuaded by the applicant’s argument that providing additional off-street parking for MAC members is likely to reduce to some degree the number of circulating vehicles at peak usage periods. That result is at least as supportive of “protecting” the neighborhood as the existing RH zone.

Policy 2.11 Commercial Centers

Expand the role of major 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: It could be argued that the proposal, which could result in 225 additional parking spaces that support the adjacent Retail Use—MAC—will strengthen the Central City’s commercial center. However, residential neighbors in opposition to this proposal argue that the project is not compatible with the surrounding area. There should be no debate that this request directly conflicts with the policy directive to encourage the retention of existing high density apartment zoning adjacent to these centers. Given this, staff finds that the requested designation does not equally or better support this policy.

Hearings Officer Findings: The applicant disputes the BDS Staff conclusion primarily because both the RH zone and CX zone allow high density residential development, and the record shows that such a development is likely – particularly given the proposed restrictive covenant.

Neither staff nor the applicant identifies the commercial center that might be associated with this application. Nevertheless, the existing RH zoning does not necessarily promote this policy of expanding commercial centers. What appears to be more relevant to compliance with this policy given the current proposal is preserving the ability to provide high density housing rather than some other permitted or conditional use on the site. With this in mind, staff’s proposed revision to Condition C. set forth in Exhibit H.40 is relevant. The Hearings Officer accepts this proposed revision for a number of reasons, one of which is that it limits future use of the subject property to those proposed by the applicant, and prohibits conditional uses that might otherwise be allowed in the zone. Revised Condition C. at least partially memorializes the applicant’s promise to record a restrictive covenant of the same nature. With this imposition of revised Condition C., the Hearings Officer concludes that the proposal is at least equally supportive of Policy 2.11.

Policy 2.12 Transit Corridors

Provide a mixture of activities along 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: The current Design overlay zone and Central City Plan District development standards will emphasize elements that respond to the pedestrian for either designation/zone. The subject site is located within one block of the Goose Hollow/Jefferson Street light rail station, two blocks from the King's Hill/SW Salmon light rail station, and less than a quarter mile to W Burnside with frequent bus service. This proposal will not result in development of separate commercial uses and/or labor-intensive industrial activities nor will it increase residential densities beyond what the current designation allows. Because this application identifies plans to provide 191 parking spaces that will be accessory to the residential units, and up to the 225 that would serve the adjacent MAC facility, staff has determined that the proposal does not promote transit use and therefore does not equally or better support this policy.

Hearings Officer Findings: The applicant disagrees with the staff's analysis for multiple reasons. Those reasons have to do with examining the actual text of each of the four sentences in Policy 2.12 (Exhibit H.10g). As noted in the Hearings Officer's Overview, the standard of interpretation required of hearings officers is to closely follow the text and context of a disputed provision so as to be correct as a matter of law. Here, staff's interpretation violates a basic rule of statutory construction which is to avoid adding terms that have been omitted or omitting those terms present in the text. ORS 174.010. Policy 2.12 does not include a requirement to "promote transit use." Rather, there are four loosely related sub-policies that individually bolster "transit corridors." The Hearings Officer finds that when the text is closely followed, the number of off-street parking spaces a residential development may have is unrelated to compliance with the four sub-policies. For this reason, I agree with the applicant's analysis in Exhibit H.10g and adopt it as my own by this reference. The proposal equally supports this 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 providing on-site pedestrian circulation to adjacent streets and development.

Findings: The applicant did not identify this policy as relevant to the proposal. The GHFL Block 7 Planning Committee contends it is a relevant policy. Staff concurs with the applicant. This proposal does not include auto-oriented commercial uses such as drive-through restaurants, quick-vehicle servicing uses. Nor does this proposal include accessory parking that serves an auto-oriented commercial development. This policy is not relevant.

Policy 2.15 Living Closer to Work

Locate greater residential densities near major employment centers, including Metro-designated regional and town centers, to reduce vehicle miles traveled per capita and maintain air quality. Locate affordable housing close to employment centers. Encourage home-based work where the nature of the work is not disruptive to the neighborhood.

Findings: The site is located within the region's major employment center—the Central City Plan District. The proposed designation is consistent with the designation found in the immediate area—north and east of the subject site. As stated under Metro's Title 7, this proposed request does not preclude the development of affordable housing. Because the applicant is proposing residential development at a density that compares to what would be allowed under the current designation, this proposal equally supports Policy 2.15.

Policy 2.17 Transit Stations and Transit Centers

Encourage transit-oriented development patterns at transit stations and at transit centers to provide for easy access to transit service. Establish minimum residential densities on residentially-zoned lands within one-half mile of transit station and one-quarter mile of transit centers that support the use of transit. The design and mix of land uses surrounding transit stations and transit centers should emphasize a pedestrian- and bicycle-oriented environment and support transit use.

Findings: The application did not include a response to this specific policy. The GHFL Block 7 Planning Committee contends that the proposal conflicts with this policy for the following reasons:

- The proposal discourages use of public transit: The proposed parking garage does not encourage transit use but instead encourages and facilitates the further use of private transportation for the several thousand MAC members who visit the facility regularly.
- MAC has a history of ignoring traffic-related problems: The MAC historically has not shown a genuine or concerted effort to mitigate the problems introduced by the first garage, including heavy traffic congestion, air pollution, car noise, hazardous driving, and the resulting threats posed to pedestrian and bicyclists' safety, despite the MAC's assurances to the City multiple times in the past.
- MAC has not complied with assurances to manage parking demand: Despite promises to the city in 1983 and again in

1995, MAC has made only token efforts to encourage use of mass transit. Members may receive up to 5 parking stickers, and are not limited in length of time for parking. Guests attending the increasing number of "special events" compete for both garage and on-street parking spaces.

- The proposal is inconsistent with vision of the City: Evidence suggests their proposal will only increase the car presence in the neighborhood, along with the associated problems. The proposal de-emphasizes and works counter to a pedestrian, bicycle and transit-oriented environment for the 21st century. (Exhibit F.32)

The proposed designation will provide the opportunity for the owner to request, through a CCPR, additional parking to support the existing MAC. This review is intended to "allow for parking that supports Central City development, and is consistent with the goals and policies of the Central City Plan and Central City Transportation Management Plan (CCTMP). The approval criteria ensure that the demand for parking will be managed, and the negative effects of parking minimized, while still providing sufficient parking to meet the goals of the City for the Plan District." (PCC 33.808.010) The subsequent CCPR will determine if the impacts to the surrounding uses and transportation system will not be significant. In order to address this and policies that speak to multi-modal transportation, PBOT staff recommends a condition that requires the MAC to prepare a Parking Management Plan and a TDM Plan prior to the CCPR. This review should not presuppose that the findings of that review will be inconsistent with this policy. With this condition, staff finds that the proposed designation will equally support this policy.

Hearings Officer Findings: The opponents dispute the BDS Staff finding on the assertion that the conditions identified by staff have not been met. The neighbors argue that evidence that the conditions will not be met can be found the MAC's history of ignoring traffic problems, failure to adequately implement a TDM program, and that the MAC is lax in enforcement of its own parking policies.

The Hearings Officer agrees with the BDS Staff findings. Although the Hearings Officer understands that neighbors are frustrated with the perceived pressure the MAC places on parking and traffic congestion in the area, those assertions of past failures is not evidence that the PBOT recommended conditions cannot be met. The record shows that the recommended conditions can feasibly be met, and as such, the proposal can be deemed to be equally supportive of this policy.

Policy 2.18 Transit-Supportive Density

Through the community planning process, establish average minimum residential densities of 15 units per acre within one-quarter mile of existing and planned transit streets, Main Streets, town centers, and transit centers. Establish average minimum residential densities of 25 units per acre within one-half mile of light rail stations and regional centers. Establish minimum floor area ratios for non-residential development at light rail centers of

0.5:1. Where these densities are not realistic or desirable due to existing, well-established development patterns or environmental constraints, use other methods to increase densities such as encouraging infill through accessory units in single-family zones or increased density on long-vacant lots.

Findings: The density allowed in the RH zone and the applicant's proposed development achieve density levels that are consistent with this policy. Therefore, the requested map designation equally supports this policy.

Policy 2.19 Infill and Redevelopment

Encourage infill and redevelopment as a way to implement the Livable City growth principles and accommodate expected increases in population and employment. Encourage infill and redevelopment in the Central City, at transit stations, along Main Streets and as neighborhood infill in existing residential, commercial and industrial areas.

Policy 2.20 Utilization of Vacant Land

Provide for full utilization of existing vacant land except in those areas designated as open space.

Findings: The proposed designation better supports these policies as the map change will facilitate the development of a vacant, underutilized site. The proposed development will provide opportunities for increased population and support existing jobs. Housing near a major transit corridor in a pedestrian-oriented neighborhood supports growth principles. As previously stated, even though numerous neighbors believe that the property, or at least a portion of it should remain as an open area, this site is not mapped with the Open Space designation.

Policy 2.22 Mixed Use

Continue a mechanism that will allow for the continuation and enhancement of areas of mixed use character where such areas act as buffers and where opportunities exist for creation of nodes or centers of mixed commercial, light industrial and apartment development.

Findings: The proposed Central Commercial designation is more supportive of this policy than the existing designation because it will allow a broader of mix of uses. Specifically, the short-stay studios that will provide over-night accommodations for MAC guests will be allowed. And, the CX zone will provide an opportunity for the MAC to propose additional accessory parking—Preservation Parking through a CCPR.

The subject site is in the Central City Plan District and abuts other CX zoned sites. It is an appropriate location to allow a mix of uses. A wider variety of uses will compliment the adjacent uses—the MAC facility, a nearby public high school and a thriving commercial district on W Burnside and north of the site. Therefore, the applicant's proposal is more supportive of this policy.

Policy 2.25 Central City Plan

Encourage continued investment within Portland's Central City while enhancing its attractiveness for work, recreation and living. Through the implementation of the Central City Plan, coordinate development, provide aid and protection to Portland's citizens, and enhance the Central City's special natural, cultural and aesthetic features.

Findings: The site is located within the boundaries of the Central City Plan District, which was adopted as part of the Comprehensive Plan in 1988 (Ordinance # 160606). The applicant did not submit analysis of compliance with relevant Central City Policies and further statements. Below, staff has identified applicable policies with findings. On balance, the proposal equally supports the Central City Plan, as explained below.

Central City Plan

Policy 3, Housing

Maintain the Central City's status as Oregon's principle high density housing area by keeping housing production in pace with job creation.

Findings: The proposed 260-280 unit residential project is based upon the density that would be allowed in the RH zone given the existing floor area ratio, height limit and bonus density provisions that are provided in the Central City Plan District. The proposal equally supports this policy.

Policy 4, Transportation

Improve the Central City's accessibility to the rest of the region and its ability to accommodate growth, by extending the light rail system and by maintaining and improving other forms of transit and the street and highway system, while preserving and enhancing the City's livability.

Further:

D. Recognize that parking is an important element in the transportation system which supports growth and ensure that each district has adequate parking while improving air quality and traffic flow.

E. Encourage the use of bicycles and other alternative modes of transportation for general access into and within the Central City by improving the pleasure and safety of the transportation system.

F. Create safe and secure pedestrian and bicycle access and bicycle parking within the Central City.

G. Protect residential neighborhoods from auto and truck through-traffic.

M. Manage on-street and off-street parking to foster economic growth and an active pedestrian environment while reducing per capita vehicle miles traveled, encouraging the use of transit, carpooling, walking, and bicycling, and improving air quality.

Findings: As discussed under Goal 2 and Goal 6 policies, a separate CCPR will evaluate the impacts of the proposed MAC parking to the surrounding uses and transportation system. In order to not conflict with policies that speak to multi-modal transportation, PBOT staff recommend a condition that requires the MAC to submit a Parking Management Plan and TDM Plan with the CCPR application for the proposed additional 225 MAC parking spaces. It should not be presupposed that the results of that review will be inconsistent with this policy. The requested designation, with conditions, can equally support this policy.

Policy 15, Goose Hollow

Protect and enhance the character of Goose Hollow by encouraging new housing, commercial and mixed-use development which retains or enhances a sense of community while improving the urban infrastructure to support a more pleasant and livable community.

Further:

A. Create opportunities for 1,000 new households within the District over the next 20 years. Housing created should provide for those who enjoy a central city location with a neighborhood feel, as well as encourage diversity by attracting families.

B. Encourage retail and commercial development in mixed-use projects centering on the Civic Stadium and Jefferson Street light rail stations which support the needs of the residential community.

C. Improve pedestrian and bicycle connections to light rail and throughout the neighborhood.

E. Provide neighborhood amenities by including small pockets of open space in conjunction with new, high density development.

Findings: The GHFL Block 7 Planning Committee submitted the following arguments as to why the proposal is not consistent with the Central City Plan:

- Proposal is a strategy for increasing MAC Parking: The driving force behind Block 7 -- really, the sole reason for its existence -- is the MAC's desire for more member parking. The one point of design that is completely non-negotiable in the Block 7 project is the MAC's absolute requirement for 225 new off-street parking spots. Since early on, we've seen many other aspects of the design evolve, but never that.
- High Cost of MAC Parking will drive size of the building: Building a parking structure of this size (especially

underground) is very expensive, so MAC is partnering with Mill Creek. But Mill Creek itself will need, eventually, to recoup the high cost of building the MAC parking structure, so they're planning to construct a very large, 260-to-280 unit apartment building on top of it. As Mill Creek plans to own and operate the building, renting or leasing apartments in it, it makes sense to have the largest possible number of units to let. Therefore, Mill Creek plans to stretch the City's building code to the max, and having Block 7 rezoned to "CX" will help a great deal with that, by removing design issues such as "set-backs" and increasing the FAR ("floor-area ratio") allowance to its furthest limit.

- While the project may maximize use of the property, it is at the expense of the neighborhood and is achieved by bending the intent of the zoning rules and comp plan: The massive scale of the proposed development is excessive and should not be approved. If this development is allowed, the two corporate entities will each get what they want, but at the expense of the Goose Hollow neighborhood we live in. They're only pretending to be "good neighbors" here, while really concentrating on getting their way. Rezoning the property just to make possible the construction of parking spaces is a bending of the rules and intent of zoning laws and the comp plan.
- A much better option would be to find added parking for MAC elsewhere: The community would be vastly better off if the rezoning of Block 7 to "CX" is denied, forcing the MAC to look elsewhere for additional member parking (and there are such places, already owned by MAC, to the northwest of their clubhouse). Meanwhile, a better, smaller, but still high-density apartment building (or pair of buildings) could be designed for Block 7 in a manner more appropriate to the neighborhood, and perhaps one that leaves at least some of the ample greenery now on the site in place, for the future use and enjoyment of all area residents. (Exhibit F.32)

The proposal will create opportunities for additional housing, as well as limited commercial development in the vicinity of the "Civic Stadium" and the Jefferson Street light rail station. However, given the large number of letters of opposition sent from residents of the Goose Hollow neighborhood, and given that the application lacks specificity to show that the final development will: (1) protect and enhance the character of the neighborhood, (2) have a neighborhood feel, (3) attract families, and (4) support the needs of the residential community and provide amenities, staff finds that this proposal does not equally or better support this policy.

Hearings Officer Findings: The applicant testified at the hearing and submitted written argument addressing the above policies (Exhibit H.10g). The applicant argues that the proposal will be a mixed use development which better supports Policy 15.B, and that

reducing the number of vehicle trips will enhance bicycle and pedestrian experience in the neighborhood. The applicant also argues that neither the RH nor the CX zone contemplates retaining Block 7 as open space, so Policy 15.E is not implicated.

The Hearings Officer agrees with the applicant that Policy 15.A and 15.E are equally supported by the CX zone. However, Policies 15.B and 15.C are not supported in that the proposed hotel suites don't amount to much of a mixed-use development. Neither does the proposal under the CX zone support retail or commercial development in the vicinity. On balance, the Hearings Officer's recommendation to the City Council is that the proposed zoning does not equally or better support these policies compared to the current RH zone.

Goal 3 Neighborhoods.

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 and insure the City's residential quality and economic vitality.

Findings: The applicant states that the "MAC Parking will improve both the existing conditions...these improved traffic and parking conditions will improve the quality of the surrounding area for residential uses and therefore better support Goal 3".

Opponents of the proposal do not believe the proposal will reinforce the stability of the neighborhood. The GHFL Block 7 Planning Committee submitted the following:

Block 7, zoned RH, is bounded on the east and west sides by RH zoning with 132 homes in total. The southern boundary of the block faces 6 Victorian-era houses - 3 of them with residential uses, and 3 of them with commercial (small business) uses. The northern side faces the existing MAC parking garage. Block 7 is the keystone RH element joining Block 2 (RH) to the foot of mostly residential Kings Hill. Rezoning Block 7 would bifurcate this contiguous RH-zoned residential area - inserting a CX zoned property with commercial parking and hotel suite elements. Introducing hotel suites into the neighborhood further commercializes the area comprised of primarily residential homes and a few small businesses. This is not a good fit for the neighborhood. Furthermore, traffic congestion elevated by the additional MAC parking will significantly worsen traffic on the local streets around the block, these streets being already overburdened during rush hours and Timbers games. This will threaten livability including pedestrian and cycling safety (also motorized wheel chairs). Residents will be obliged to compete more rigorously for already scarce on-street parking because an estimated 50-75% of Block 7 residents will not have parking, and because during busy periods MAC members will be seeking out on-street parking to avoid the queues of cars waiting at the two garage entrances. The mass of the building, escalated by the need to achieve economic viability of the project to pay

for MAC parking and hotel suites, puts downward pressure on the number of parking spaces constructed for Block 7 residents, which additionally increases area competition for on-street parking. (Exhibit F.32)

Staff finds that a 16-suite hotel that is used exclusively by the adjacent MAC and that is located within a large residential building will not “commercialize” the residential character of the area. Even with compliance with the staff recommended conditions, because the CCPR application is not being reviewed concurrently, it is not possible to determine if additional MAC parking will reinforce the stability of the neighborhood. Therefore, the proposal will not equally or better support this goal.

Hearings Officer Findings: The applicant objects to the staff finding primarily because of a disagreement with staff as to when a CCPR can or must be completed (Exhibit H.10g). The applicant has agreed to secure a CCPR in order to secure permission for the desired 225 MAC parking spaces.

Looking to the text of Goal 3 Neighborhoods, the Hearings Officer questions both staff’s and the applicant’s focus on the CCPR. The text seeks “stability” in dense neighborhoods that can “retain long-term residents and businesses.” The predominant impact to the neighborhood will be the future residential building – which the record shows will be very similar to other multi-story residential buildings in the immediate vicinity. That housing is allowed at the same density under either RH or CX zoning. Those new residents will have their own off-street parking and it is reasonable to anticipate that those individuals will not be any more affected by the proposed MAC parking than residents of existing buildings. Certainly testimony at the hearing indicated that except for the peak use hours at the MAC, and for special events like Timbers games, neighborhood parking is tight but adequate for current permit holders. Based on the findings for Goal 6 Transportation, the record supports the applicant’s theory that additional off-street parking for MAC members is more likely than not to relieve on-street parking strain. As such, although it is a close question, the proposal seems to be at least equally supportive of this policy.

Policy 3.5 Neighborhood Involvement

Provide for the involvement of neighborhood residents and businesses in decisions affecting their neighborhood.

Findings: Notice of the hearing on the proposed amendments has been sent by the City to the appropriate Neighborhood Associations and to property owners within 400 feet of the site. The site is posted with information pertaining to the application and hearing schedule. The applicant submitted a list of neighborhood meetings that the applicant attended (Exhibit A.4). The applicant has participated in at least seven meetings with the GHFL Block 7 committee and three meetings with the GHFL Board. This review process and the efforts of the applicant shows that this request equally supports this policy.

Hearings Officer Findings: Both at the hearing and in written comment, the opponents argue that Policy 3.5 – Neighborhood Involvement will be violated because the change to CX zoning represents the opportunity to “commercialize” Block 7, and that the proposed restrictive covenant is insufficient to ensure that the applicant is bound to residential uses because it can be changed outside the land use approval process (Exhibit H.7).

As explained above, BDS Staff’s recommended amendment to Condition C. essentially codifies what the restrictive covenant will accomplish by prohibiting uses other than those currently proposed by the applicant. Further, the applicant testified at the hearing and in written submissions that the proposed 225 parking spaces will not be “commercial” parking as they will be reserved for MAC member use only. As to the 16 proposed hotel suites, those represent a residential type use which will be nearly indistinguishable from the apartments proposed. The Hearings Officer finds that it would be unreasonable to conclude that 16 hotel suites out of a minimum of 194 similar apartments transforms what would predominantly be a residential use into a commercial use. Therefore, the proposed CX zone is equally supportive of Policy 3’s objective of maintaining the central city as a “principle high density housing area.”

Goal 4 Housing

Enhance Portland’s vitality as a community at the center of the region’s housing market by providing housing of different types, tenures, density, sizes, costs and locations that accommodate the needs, preferences and financial capabilities of current and future households.

Findings: The CX zone allows housing as well as commercial uses. This proposal provides for 260-280 residential units that will match the anticipated/allowed density of the existing designation/zoning.

The GHFL Block 7 Committee contends that, “The applicant’s proposal satisfies the housing need but trades off too much livability for high density housing. MAC parking for an additional 225 parking stalls plus 14-16 hotel suites escalates building mass which undermines residential features.”

Staff finds that this proposal equally supports all the Housing policies. Staff recommends a condition that requires the future development to provide at least 194 residential dwelling units to address Policy 4.2 and criterion 33.8010.050.A.2. An analysis of the applicable policies follows, below.

Policy 4.1 Housing Availability

Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of Portland’s households now and in the future.

Policy 4.2 Maintain Housing Potential

Retain housing potential by requiring no net loss of land reserved for, or committed to, residential, or mixed-use. When considering requests for amendments to the Comprehensive Plan map, require that any loss of potential housing units be replaced.

Findings: The applicant intends to develop 260-280 residential units which will increase the supply of housing. Consistent with Policy 4.2 and to address criterion 33.810.050.A.2 when requesting a change in designation from residential to a commercial, employment or industrial designation, the “potential housing” on the site must be replaced. The housing potential on the subject site is based upon the allowed FAR and an assumption that an average high-density dwelling unit is 900 square feet in size. For this 43,557 square foot site at a FAR of 4 to 1 has the potential of at least 194 dwellings. To ensure that the criterion is addressed, staff recommends a condition that requires at least that number be constructed on the site. The proposed designation equally supports this policy.

Policy 4.3 Sustainable Housing

Encourage housing that supports sustainable development patterns by promoting the efficient use of land, conservation of natural resources, easy access to public transit and other efficient modes of transportation, easy access to services and parks, resource efficient design and construction, and the use of renewable energy resources.

Policy 4.4 Housing Safety

Ensure a safe and healthy built environment and assist in the preservation of sound existing housing and the improvement of neighborhoods.

Policy 4.6 Housing Quality

Encourage the development of housing that exceeds minimum construction standards.

Policy 4.7 Balanced Communities

Strive for livable mixed-income neighborhoods throughout Portland that collectively reflect the diversity of housing types, tenures (rental and ownership) and income levels of the region.

Policy 4.10 Housing Diversity

Promote creation of a range of housing types, prices, and rents to 1) create culturally and economically diverse neighborhoods; and 2) allow those whose housing needs change to find housing that meets their needs within their existing community.

Policy 4.11 Housing Affordability

Promote the development and preservation of quality housing that is affordable across the full spectrum of household incomes.

Policy 4.14 Neighborhood Stability

Stabilize neighborhoods by promoting: 1) a variety of homeownership and rental housing options; 2) security of housing tenure; and 3) opportunities for community interaction.

Findings: The proposal equally supports with these policies. The applicable Central City Plan District regulations, Design Review and other City development standards will help achieve a project that is safe, structurally sound, with quality materials and is an appropriate response to the surrounding architectural context. Maintaining an adequate supply of housing will help to address affordability for Portland residents.

Goal 5 Economic Development

Foster a strong and diverse economy which provides a full range of employment and economic choices for individuals and families in all parts of the City.

Findings: The applicant provides the following response to the policies of Goal 5:

The proposed Apartments themselves support Goal 5 by increasing living opportunities within the Central City and Goose Hollow area, thereby providing an additional local customer and employee base to support economic development in these areas. However, the additional MAC Parking allowed through the proposed Central Commercial designation will provide two additional key economic benefits. First, the additional parking will benefit the MAC itself, which employs over 500 employees, supports over 17,000 resident members, and serves many important social, athletic, and cultural functions for the City. Second, by improving the present traffic conditions at the surrounding intersections, the MAC Parking will necessarily benefit customer access to surrounding local businesses. Finally, although not a direct economic benefit, the improvement in traffic conditions will also improve the livability of the project vicinity for residents (Exhibit A.1).

In contrast, the GHFL Block 7 Committee contends that the proposal is contrary to Goal 5 policies because:

"The proposed additional MAC parking is for the exclusive use of MAC members and guests who will directly benefit from MAC free parking. Area residents and small businesses in the neighborhood will not have access to MAC parking to satisfy their own parking needs. This will hurt local businesses and residents rather than benefit them." (Exhibit F.32)

As detailed below, staff finds that the proposal equally or better supports all the relevant policies of Goal 5.

Hearings Officer Findings: Opponents make several arguments under this policy that essentially assert that any economic benefit realized from the addition of 225 new off-street parking spaces will accrue only to the MAC and will not add much to a diverse economy (Exhibit H.7). They argue that nearby businesses will not benefit and profits from the residential units will flow to Texas rather than local entities.

The Hearings Officer finds that the neighbors are correct that the MAC patrons that use the new parking spaces will likely be the same members that currently use the club. There is no definitive economic analysis in the record which would show economic benefit one way or the other. As to the other policies, MAC has argued that the new parking spaces will not add vehicle trips because there is a shortage of spaces now and MAC members shift their times of using the club to accommodate the shortage of spaces. This position carries with it the conclusion that the new spaces will not generate new potential patrons for the other businesses in the vicinity. The proposed hotel suites may bring some out of town visitors that are interested in visiting the surrounding local businesses, but that economic benefit will realistically be very low. Based on the record, the Hearings Officer concludes that the proposed CX zone is no better and no worse than the RH zone as to Goal 5. I agree with BDS Staff that the proposal equally supports the policy.

Policy 5.1 Urban Development and Revitalization

Encourage investment in the development, redevelopment, rehabilitation and adaptive reuse of urban land and buildings for employment and housing opportunities.

Policy 5.2 Business Development

Sustain and support business development activities to retain, expand and recruit businesses.

Findings: The proposal better supports these policies because the proposed Central Commercial designation allows for mixed-use opportunities. It will facilitate the development of a 43,000 square foot site that is located near frequent transit lines and a variety of commercial services. The proposal will provide an opportunity for additional MAC parking. The MAC facility is a major employer with 500 employees and offers social, business and athletic services to leaders of the community and greater metropolitan region.

Policy 5.4 Transportation System

Promote a multi-modal regional transportation system that stimulates and supports long term economic development and business investment.

Findings: The subject site is within close distance to frequent light rail and bus service. The Central City has a system of bicycle and pedestrian corridors and specific plans/policies that manage the transportation system—Central City Transportation Management Plan. Staff is recommending transportation-related conditions that are intended to support key transportation policies. These conditions will ensure that the designation and proposed

development will support the business investment in the Central City Plan District. With conditions, the proposal can equally support this policy.

Hearings Officer Findings: The opponents argue that the proposal and the CX zone promote automobile use over mass transit and multi-modal transportation options (Exhibit H.7). Once again, the opponents do not account for, or accept, that the BDS Staff and PBOT recommended conditions will actually work. Those proposed conditions, however, require the applicant to submit a Parking Management Plan and TDM Plan that demonstrates in various ways that mode share targets can be met for three, ten and twenty years. The opponents, other than consistently asserting that MAC patrons will only use the new parking if given a choice, do not provide compelling argument or evidence that multi-modal targets cannot be met. The Hearings Officer particularly points out Condition E.6., which requires that the two plans be developed “with PBOT Active Transportation staff and included in the CCPR application.” Since a successful CCPR will be required in order to obtain the desired parking spaces, the conditions proposed are sufficient to show that it is feasible to comply with Policy 5.4. For these reasons, I agree with BDS Staff that the proposal is equally supportive of the policy.

Goal 6 Transportation

Develop a balanced, equitable, and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility.

Hearings Officer Findings: The issue of potential transportation impacts is the most contentious subject of this application. Due to the way the staff report is laid out and because opponents raise some overarching arguments, I am stating my summary findings here so that the balance of this recommendation is easier to follow. Other than the overarching arguments discussed below, the testimony and written submissions by opponents are not sufficiently developed to enable the Hearings Officer to respond. For example, Exhibit H.7 indicates that opponents believe the proposal does not support numerous policies within Goal 6 Transportation – but there is no specific argument provided that would allow the Hearings Officer to respond to each of those identified policies. In the absence of a specific argument, the Hearings Officer adopts the BDS Staff and PBOT findings that follow.

There are four overarching arguments that color the opponents’ positions on consistency with Goal 6 Transportation: 1) the previously discussed position that any BDS Staff conditions should be met prior to rather than subsequent to approving the requested map amendments. This issue is adequately considered in the Hearings Officer’s Overview and as for Goal 6 Transportation there is no deviation from my position that imposing conditions subsequent is allowed; 2) that the applicant’s assertions of a current deficit of approximately 200 parking spaces is unproven. The opponents do not agree that such a “need” for additional MAC parking spaces exists, and they question the calculations leading to the 200

space deficit; 3) that providing up to 225 new off-street parking spaces will increase both peak and daily trips to the MAC simply by the mere existence of those spaces, and that the spaces will generate a latent demand in MAC club members that are currently discouraged from using the club due to inadequate parking. This condition, the opponents argue, will increase vehicle trips to the area bringing congestion, additional queuing and air pollution; and 4) whether the proposal can meet the requirements of the Transportation Planning Rule.

Need for Parking

FOGH strongly asserts that the applicant has not adequately proven that up to 200 vehicles have been regularly turned away from the MAC garage at various times in the past. Their consultant, David Evans and Associates (DEA) questions the calculations that the applicant's consultant Kittelson & Associates (KA) made for AM peak and PM peak trips and how those figures square with the applicant's assertion that at times there is a 200 space deficit in off-street parking for MAC members. The competing expert testimony can be reviewed in Exhibits H.5 Attachment 9, H.54a, Exhibit H.42a and H.53, H.53a and H.53b.

For the purposes of City Council review, the Hearings Officer deems it important to note that none of the Goal 6 Transportation policies require that an applicant for a map amendment demonstrate a "need" for additional parking in order to justify the proposed amendment. The argument between the opponents and the applicant in this case is over the issue of whether the potential for 225 additional parking spaces will provide for existing vehicle trips (those MAC says are turned away) or whether the new parking spaces will generate new vehicle trips as the opponents allege.

On this issue, the Hearings Officer views the dispute over whether 200 vehicles are turned away, and how that is measured or calculated, to be somewhat beside the point. The reason for this conclusion is based on a fact that is not in dispute – that the proposed amendments are not for the purpose of supporting an increase in MAC membership or an increase in the current size of the MAC building itself. This fact is central to PBOT's analysis below. I agree with PBOT that without evidence that the membership will be increasing, or that the facility will expand, there is little factual basis upon which to determine that a significant number of new vehicle trips will be generated by this proposal. This is the central fact for compliance with Goal 6 Transportation.

The applicant has provided some substantial evidence of a parking deficit at the MAC. Whether the 200 space deficit is exactly right is not critical. DEA's questions about how the 200 number was arrived at do not demonstrate that the MAC's estimate is a fabrication as is implied by DEA's analysis, and I do not find that it undermines the applicant's evidence.

I also find one other point persuasive. At both the hearing and in written submissions, the applicant argued that if the MAC itself were subject to the parking space standards of the RH zone, a minimum of 1,060 stalls would be required. The applicant states, and this appears to be undisputed, that currently 536 stalls exist at the Salmon Street garage and 116 at the

Portland Towers location. Even with the addition of up to 225 new stalls as proposed, the MAC facility still would appear under-parked for the RH zone (Exhibit H.53).

Latent Demand

FOGH also found fault in the applicant's TIA and trip generation analysis arguing that there is likely "latent" or unmet demand for parking among MAC members. Opponents argued that the TIA is flawed because it does not account for the alleged latent demand.

Again, for the purposes of City Council review, the Hearings Officer believes that it is important to note that PBOT found that a traffic study is not required "because the site will be limited to the number of dwelling units that could be constructed under the existing zone." Thus, at least for the purposes of complying with the applicable criteria for Comprehensive Plan and Zone map amendments under the City code, a TIA was not required. Reviewing the record, the Hearings Officer believes that the only reason the applicant submitted a TIA was for the purpose of making it easier to show that the proposal will not "significantly affect" a transportation facility under the Transportation Planning Rule.

Simplified, DEA's argument is that currently some MAC users are likely going to the club during non-peak periods (peak being lunch time and early evening) to avoid the tight parking conditions ("shifting"). Once new parking spaces are provided, DEA argues, those MAC members will shift back to peak period use – and that could cause a change in the AM and PM peak vehicle counts to increase to the point where they might significantly affect the transportation system (Exhibit H.54a).

The applicant and KA respond that their field observations show that demand at the main garage and secondary garages are regularly exceeded at lunch and early evening under existing conditions (Exhibit H.42a). KA argues that the additional 225 parking spaces would have the effect of consolidating parking in one location and satisfy all of the existing demand. As to latent demand, KA argues that accepted practice is to associate new vehicle trips with expanded "land uses" – not the building of new parking stalls.

I am not persuaded that DEA's theory of latent demand is supported by sufficient evidence in this record. While DEA insists that some sort of latent demand analysis should have been done in the TIA, it is unclear why DEA was unable to provide at least some rough estimate of unmet demand itself given all the data in the TIA and elsewhere in the record. I agree that it is reasonable to believe that some club users might "shift" to return to lunch hour or evening visits to the club. However, there is simply insufficient evidence in the record to conclude that such shifting will occur in significant numbers to, for example, cause nearby intersections to dip below the acceptable level of service. It is also significant that PBOT associates increase peak vehicle trips with expanded land use – not the creation of parking stalls. For all these reasons, the Hearings Officer concludes that latent demand will not be

significantly present to the extent that the proposed CX zoning will not equally support Goal 6 Transportation.

Restrictive Covenant and the Transportation Planning Rule (TPR)

FOGH also argues that neither the City nor the applicant can rely on the imposition of a restrictive covenant to meet the requirements of the TPR (Exhibit H.54).

The findings above demonstrate that the record contains sufficient substantial evidence to determine that the proposal meets the primary requirement of the TPR – which is that comprehensive plan and zoning code amendments do not “significantly effect” a transportation facility.

The question raised by FOGH is whether the proposed restrictive covenant and the revised Condition C. can conclusively limit the uses in the proposed CX zone in the way that the applicant asserts. Specifically, the opponents argue that any restriction must be applied to limit the number of “vehicle trips” in order to be effective.

As discussed previously in this decision, BDS Staff correctly determined that the proposed map amendments can be conditioned to limit the future uses to residential in a range between 194 and 296 dwelling units (and associated parking), with 16 hotel suites and up to 225 parking spaces for MAC members. As conditioned, the proposal was demonstrated to not significantly affect the transportation system. This approach is also allowed by the TPR at OAR 660-012-0060(2)(a) – which allows local governments to impose “measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.” The text of this provision identifies “land uses” not “vehicle trips” as the focus of any limitation. For this reason, I agree with the applicant that the proposed restrictive covenant and revised Condition C. are sufficient to comply with the TPR.

Findings: The application includes the following response to Goal 6 and why the applicants believe that the proposed designation is more supportive than the existing designation.

The sole distinction between the proposed development under the existing RH zoning and the proposed CX zoning is the additional MAC Parking spaces. The proposed additional spaces are not being provided to serve any new vehicle demand for the MAC facilities. Instead, the intended purpose of these parking spaces is to address the existing deficiencies in the MAC's current parking, which provides only 536 primary stalls in the MAC parking garage and some temporary secondary leased stalls to serve the 346,000 square foot MAC facilities. Thus, the transportation benefits of the additional MAC parking is a key component of this proposal. Specifically, the MAC parking garage currently experiences 90% utilization during peak hours five months

out of the year. During these times, vehicles attempting to access the MAC parking garage cause a significant amount of delay. Because the current secondary MAC parking facilities are not conveniently located, many vehicles during peak hours attempt to circulate to find on-street parking or obtain a recently vacated space in the MAC parking facility. The proposed MAC Parking at Block 7 will be significantly easier to access from the MAC parking garage than the current secondary facilities, and will therefore significantly alleviate the delay and on-street parking issues by efficiently redistributing the excess demand for the MAC parking garage. When the existing parking garage is full, parkers will be directed to simply proceed through the tunnel directly to the MAC Parking in Block 7. This will eliminate all of the current trips parkers must take whenever the existing MAC parking garage is full, thereby making unnecessary trips circling the existing garage waiting for a space to open, trips looking for on-street parking and trips to the Portland Towers garage. Thus, the proposed plan amendment to allow the MAC Parking is significantly more supportive of Goal 6 than the existing designation (Exhibit A.1).

Opponents, such as the GHFL Block 7 Committee disagree. They contend the following:

The applicant has asserted, without attribution, that there will be "no new trips" to the Club for parking as a result of the proposed reconfiguration of parking. Inevitably, the additional 225 (42%) MAC parking spaces and 14-16 hotel suites will generate more trips because of the availability of MAC parking, enabling the club to increase the number and size of special events and attract many more members and guests to fill the available capacity. It appears that the MAC's current overflow parking facilities will remain available for the MAC to continue using (MAC has not stated whether this parking will, or will not, continue to be used.)

The lack of MAC parking demand management (parking is free, number of permits/members not controlled, etc.) exacerbates this problem. These factors will combine to drive up the total volume of cars entering and exiting the area thereby elevating noise pollution, air pollution, pedestrian safety, and cycling safety and other livability factors. (Exhibit F.32)

PBOT has reviewed the applicant's submittal (Exhibit A.14) and letters from opponents of the proposal. The PBOT response is provided below:

Portland Transportation/Development Review has reviewed the application 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.

There are two main reasons for the requested Comprehensive Plan Amendment / Zone Map Change (CP ZC) from RH to CX. The first is to allow Multnomah Athletic Club (MAC) to apply for a future Central City Parking Review (CCPR) to seek approval to construct up to 225 below grade parking spaces for use by MAC patrons and guests. The second is to allow for 16 of the up to 296 dwelling units for short term visitors for the MAC. These short term visitor units would be allowed by right if the site were zoned CX. As stated above, approval of the CP ZC would not approve the 225 parking spaces for the MAC, but only allow the MAC to request approval through future land use review (CCPR). The MAC is proposing to access those new spaces from the existing MAC parking structure through a tunnel under SW Main St. That tunnel will require approval by City Council through a future review of a Major Encroachment Permit that is not part of this CP ZC request.

In addition, in order to provide assurances to the neighborhood that other than the 225 parking spaces and 16 visitor units for the MAC, the remainder of the site will be limited to residential dwelling units. Furthermore, conditions of approval will limit the number of dwelling units (296) to what could be constructed under the existing RH zone designation.

A traffic study is not required because the site will be limited to the number of dwelling units that could be constructed under the existing zoning. If the development is limited to result in no net increase in vehicle trips over what is allowed by the existing zoning it is considered mitigation under PBOT's Administrative Rules for Traffic Capacity Analysis in Land Use Review Cases, specifically section 3.a.(i).

I. Administrative Rules for Traffic Capacity Analysis in Land Use Review Cases

For traffic impact studies required in the course of land use review or development, the following standards apply:

1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.
2. For stop-controlled intersections, adequate level of service is LOS E. Level of service for two-way stop-

controlled intersections is based on individual vehicle movement, and all-way stop controlled intersections is based on a weighted average of vehicle delay for the intersection.

3. An amendment or other land use application that requires analysis of traffic capacity and allows development that either (1) may cause a transportation facility to perform below the standards established in sections 1 and 2, or (2) adds vehicle trips to a facility that is already performing below the standards established in sections 1 and 2 may be approved if:

a. Development resulting from the amendment or other land use application will mitigate the impacts of the amendment or other land use application in a manner that avoids further degradation to the performance of the facility by the time of development through one or more of the following:

(i) the development is limited to result in no net increase in vehicle trips over what is allowed by the existing zoning; OR

(ii) one or more combination of transportation improvements or measures are imposed to mitigate the transportation impacts of the amendment or other land use application in a manner that avoids further degradation to the performance of the facility by the time of any development.

The cap of 296 residential dwelling units was arrived at by determining the reasonable worst case development scenario based on the amount of floor area that could be developed under the existing Central City RH height limits and Floor Area Ratio (FAR) bonuses and transfers and that could realistically be obtained. The number of weekday p.m. vehicle trips that would be generated by the 16 visitor units would be slightly less than those for apartment units and therefore will not create any more additional trips. Approval of this CP ZC does not guarantee that 296 dwelling units can be constructed. The development of the site must still be approved through a design review which will also determine the approvability of any FAR bonuses and density transfers.

PBOT will recommend conditions of approval limiting the development to 296 dwelling unit including 16 visitor units, and requires a TDM Parking Management Plan for any future approval of the 225 below grade parking spaces for use by the MAC.

As required by 33.800.060, the Burden of Proof is on the applicant to show the approval criteria are met. The burden is not on the City or other parties to show the

criteria have not been met. The following findings have been provided by the applicant. With the exception of the following Policies: 6.25 Parking Management, 6.27 Off-Street Parking, and CCTMP Policy 4 Parking and Policy 6 Demand Management, PBOT staff generally concurs with the findings. In order to better meet the above mentioned policies, PBOT recommends that prior to a future Central City Parking Review (CCPR) that the MAC be required to submit a Parking Management Plan and Transportation Demand Management (TDM) plan. The Parking Management and TDM Plan must include:

1. documentation of then-current and projected post-development mode shares to the site(s);
2. mode share targets for three years, ten years and twenty years based on adopted city, regional and state policies;
3. facilities, financial, information and education strategies likely to achieve the mode share targets;
4. regular mode share reporting requirements;
5. contingency strategies and enforcement mechanisms to ensure targets are met.

PBOT staff also recommends that all elements of the TDM and Parking Management Plan be developed with PBOT Active Transportation who has expertise in TDM plans. The Parking Management Plan and TDM Plan are not land use reviews.

Mill Creek Residential Trust is proposing to develop Block 7 in the Goose Hollow Neighborhood. Block 7 is bounded by SW Main Street to the north, SW 19th Avenue to the east, SW Madison Street to the south, and SW 20th Avenue to the west. The proposed development consists of up to 296 apartments, 191 parking stalls for residents, and 225 parking stalls for the Multnomah Athletic Club (MAC) (the "Project"). Sixteen of the apartment units will be used exclusively by the MAC for its members and their guests. Access to the residential parking will be provided via driveways located along SW Main Street and SW Madison Street. Access to the additional MAC parking on Block 7 will be provided via a tunnel under SW Main Street that connects to the MAC's main parking garage. No access to the additional MAC parking will be provided on Block 7. Construction is expected to begin in 2014 with anticipated build-out and occupancy in 2015.

The apartments (except for the 16 MAC units) and the residential parking stalls on Block 7 are allowed outright under the current zoning, and therefore the permitting of these uses does not require analyses of the adequacy of the transportation system. In addition, the developer will impose a restrictive covenant on Block 7, in favor of and enforceable by the City, that will limit any future use of Block 7 to only the uses included in the Project so that none of the other commercial uses which would be allowed

under the proposed Comprehensive Plan and zoning designations could be developed on the site.

Although access to the additional MAC parking on Block 7 will only be provided via the existing driveways to the MAC's main parking garage, the provision of the additional MAC parking requires a zone change and Comprehensive Plan amendment. One of the criteria that must be addressed as part of the zone change and Comprehensive Plan amendment is compliance with the Transportation Planning Rule (Oregon Administrative Rule (OAR) 660-12-0060). This Transportation Impact Analysis (the "Analysis") demonstrates that the Project's transportation impacts comply with the approval criteria of the Transportation Planning Rule and the City's transportation-related approval criteria for the Comprehensive Plan change and zone change amendment.

City of Portland Policy Compliance Analysis

The following list provides our expert opinions regarding the proposed project's relationship to the 35 policies in the City's Transportation Element of its Comprehensive Plan. Some policies are specifically evaluated and addressed in the preceding sections of this Transportation Impact Analysis. Opinions on other policies are based on professional engineering judgment.

Policy 6.1 Coordination

The proposed project is subject to the City's Type III land use review protocols, including coordinating review and approval in light of the TPR.

Policy 6.2 Public Involvement

The proposed project will be reviewed by the Goose Hollow Neighborhood Association and is subject to the City's Type III land use review public involvement protocols

Policy 6.3 Transportation Education

The proposed project does not depend on and does not compromise efforts to support the education efforts that emphasize safety for all modes of travel.

Policy 6.4 Classification Descriptions

The proposed project depends on and does not compromise the existing street classifications for the various transportation modes.

Policy 6.5 Traffic Classification Descriptions

The proposed project depends on and does not compromise the existing traffic classifications for the streets in the vicinity of the project.

PBOT Response: At this location, all four frontages; SW Main, SW Madison, SW 19th, and SW 20th are all classified as

Local Service streets for all transportation modes in the City's Transportation System Plan. The site is located within a pedestrian district. In order to better meet the Local Traffic Classification, PBOT recommends that vehicle access to any below grade commercial parking not be allowed on from the surface street fronting Block 7. Access to the potential commercial parking is proposed by the applicant to be through a tunnel from the existing MAC parking structure.

Policy 6.6 Transit Classification Descriptions

The proposed project depends on and does not compromise the existing transit classifications for the streets in the vicinity of the project.

Policy 6.7 Bicycle Classification Descriptions

The proposed project depends on and does not compromise the existing bicycle classifications for the streets in the vicinity of the project.

Policy 6.8 Pedestrian Classification Descriptions

The proposed project depends on and does not compromise the existing pedestrian classifications for the streets in the vicinity of the project.

Policy 6.9 Freight Classification Descriptions

The proposed project depends on and does not compromise the existing freight-related classifications for the streets in the vicinity of the project.

Policy 6.10 Emergency Response Classification Descriptions

The proposed project depends on and does not compromise the existing emergency response route classifications for the streets in the vicinity of the project.

Policy 6.11 Street Design Classification Descriptions

The proposed project depends on and does not compromise the existing street design classifications for the streets in the vicinity of the project.

Policy 6.12 Regional and City Travel Patterns

The proposed project's street system use will be the same as existing use, which is consistent with state, regional and City street classifications.

Policy 6.13 Traffic Calming

The proposed project is not expected to create a need for traffic calming measures.

Policy 6.14 Emergency Response

The proposed project depends on and does not compromise the existing network of emergency response streets in the vicinity of the project.

Policy 6.15 Transportation System Management

This project is not expected to generate a need for roadway capacity or safety improvements.

Policy 6.16 Access Management

This project provides adequate accessibility to its proposed land uses without adversely impacting efficient and safe use of the street system for all modes and motor vehicle parking.

Policy 6.17 Coordinate Land use and Transportation

This project and its unique location is in close coordination with the transportation system. The project proposes increased residential density in the vicinity of established commercial uses and robust multimodal transportation options.

Policy 6.18 Adequacy of Transportation Facilities

The findings of this study confirm that the requested land division and zone change are consistent with the identified function and capacity of the affected transportation facilities.

Policy 6.19 Transit-oriented Development

The high density residential uses proposed are consistent with transit-oriented development in Goose Hollow. The proposal will increase the number of residences within very close proximity to existing high-quality transit service.

Policy 6.20 Connectivity

The findings of this study confirm that the proposed project benefits from and does not compromise the existing interconnected multimodal street network in the vicinity of the project.

Policy 6.21 Right-of-Way Opportunities

The findings of this study confirm that the proposed project benefits from and does not compromise the existing right-of-way features, and in fact will contribute additional right-of-way along its frontage.

Policy 6.22 Pedestrian Transportation

The findings of this study confirm that the proposed project benefits from and does not compromise the existing pedestrian network that connects shopping, services, schools, parks, employment and transit. The proposed project will supply more residents to benefit from the existing network.

Policy 6.23 Bicycle Transportation

The findings of this study confirm that the proposed project benefits from and does not compromise the existing bicycle network that connects shopping, services, schools, parks,

employment and transit. The proposed project will supply more residents to benefit from the existing network.

Policy 6.24 Public Transportation

The findings of this study confirm that the proposed project benefits from and does not compromise the existing high-quality transit service provided in the vicinity of the proposed project.

Policy 6.25 Parking Management

With a condition of approval that requires a TDM and Parking Management Plan for the MAC use of the potential 225 below grade parking spaces the proposed project effectively manages the parking supply in a manner that supports neighborhood and business district vitality. Its close proximity to everyday land uses and services like shopping, services, schools, parks, employment and transit is expected to reduce parking demand at those locations. Through the CCPR, the applicant intends to show how the proposed project, specifically the MAC parking, will effectively leave a residual of available on-street parking even during the most demanding time of the day.

Policy 6.26 On-street Parking Management

The findings of this study confirm that the proposed project effectively manages the supply, operations and demand for parking and loading in a manner that supports neighborhood livability and business district vitality, and safety for all modes. The proposed project is expected to effectively leave a residual of available on-street parking even during the most demanding times of the day.

Policy 6.27 Off-Street Parking

The proposed project provides off-street parking in accordance with City Code requirements that are intended to promote good urban form and the vitality of neighboring commercial areas.

C. Limit the development of new parking spaces to achieve land use, transportation, and environmental objectives.

PBOT Response: Policy 6.27.C can be equally met with a requirement that the applicant submit a Parking Management Plan and TDM plan prior to approval of a CCPR for additional MAC parking on the site.

Policy 6.28 Travel Management

The proposed project is expected to support transportation choices through its close proximity to everyday land uses and services like shopping, services, schools, parks, employment and transit. The opportunities and benefits are self-evident and will not require special education or

information efforts.

Policy 6.29 Multimodal Freight System

The proposed project benefits from and does not compromise the movement of freight within and through the City.

Policy 6.30 Truck Mobility

The proposed project does not change or compromise the existing freight access to the neighboring businesses.

Policy 6.31 Truck Accessibility

The proposed project does not affect truck access to and from intermodal freight facilities, freight districts or the regional freight system.

Policy 6.32 Regional Trafficways

The proposed project does not affect regional through-traffic.

Policy 6.33 Multimodal Passenger Service

The proposed project does not affect intercity transportation services.

Policy 6.34 Congestion Pricing

The proposed project does not relate to congestion pricing.

6.42 Central City Transportation District. Include as part of the Transportation Element of the Comprehensive Plan, the Central City Transportation Management Plan Goal, policies, and objectives and classification maps.

Response: The subject property is located within the Central City Plan District. The applicable goals and policies of the Central City Transportation Management Plan Goal are discussed below.

CCTMP GOAL. Provide for and protect the public's interest and investment in the public right-of-way and in the transportation system consistent with the Transportation Element of the Comprehensive Plan and support the Central City by:

Increasing the use of mass transit, biking, walking, and carpooling as alternatives to single-occupant vehicles
Improving access and circulation within the capacity of the street system with consideration for all modes of transportation

Supporting existing and new development in accordance with the policies of the Central City Plan by emphasizing the importance of developing housing and attracting key businesses that will benefit each district of the Central City

Minimizing the demand for parking without negatively impacting development opportunities by managing long- and short-term parking and providing incentives to encourage the use of alternative modes

Minimizing and mitigating the effects of high-density development on adjacent neighborhoods

Response: As discussed above and throughout the TIA, the additional Block 7 MAC Parking permitted by the proposed zone change will significantly improve vehicle access and circulation in the Goose Hollow neighborhood by efficiently redirecting current MAC parking demand from the MAC parking garage to the Block 7 MAC Parking through the tunnel. Moreover, since the additional Block 7 MAC Parking will not generate any new vehicle trips, existing demand for mass transit, biking, and walking will be retained. Indeed, the circulation benefits of the MAC Parking will create a corresponding safety and circulation benefit for cyclists in the Goose Hollow neighborhood. These benefits are exactly the type of unique solution to transit issues that is promoted by the CCTMP

POLICY 1 GROWTH WITH LIVABILITY. Support the vitality of existing residences and businesses and the development of new housing in, and attract new jobs to, the Central City, while also improving its livability, by maintaining and improving the transportation system for all modes.

POLICY 2 CIRCULATION AND ACCESS. Maintain and enhance the economic vitality and livability of Portland's Central City for residents, goods and service providers, businesses and their employees, and visitors through balanced transportation management programs, which enhance mobility and access.

POLICY 4 PARKING. Manage the supply of off- and on-street parking to improve mobility, support economic development, promote the use of alternative modes, and minimize impacts on adjacent neighborhoods.

PBOT Response: With a requirement for the applicant to receive PBOT approval for a Parking Management Plan and TDM plan prior to approval of a CCPR for additional MAC parking on the site, this policy can be better met.

Policy 4.2 Off-Street Parking. Manage the supply of off-street parking to improve mobility, promote the use of alternative transportation, support existing and new economic development, and enhance the urban form of the Central City.

Policy 4.3 Parking Ratios for New Development. Allocate parking for new development through the use of maximum parking ratios. Support the development of parking in conjunction with new development up to the allowed ratios. Parking approved under maximum parking ratios is allowed to be managed in a manner to maximize the effective utilization of spaces, as long as it is paid parking.

Policy 4.4 Management of Parking Associated with Existing Buildings. Allow structured parking approved for buildings developed prior to the CCTMP and under maximum parking ratios to be managed to maximize the effective utilization of spaces as long as it is paid parking.

Policy 4.5 Parking for Buildings with Less than the Allowed Ratios. 4.5.1 Support the development of parking facilities to provide parking for existing buildings that have less parking than is allowed by the maximum ratios.

4.5.4 For the rest of the Central City, not including the Core and Lloyd District, the parking needs of existing buildings will be treated the same as for new development, including the application of maximum ratios for office for those Districts/Sectors with such ratios.

Policy 4.8 Residential Parking. Support the provision of adequate parking that meets the needs of the development while minimizing impacts on congestion and air quality and encouraging the use of alternative transportation modes for residential uses throughout the Central City.

Response: Each of these policies will be promoted by the additional MAC Parking, as set forth in the TIA, by: (1) improving circulation; (2) providing a new opportunity to satisfy existing demand created by the currently under parked MAC facilities; (3) improving intersection functionality; (4) reducing demand for on-street parking and (5) implementing a Parking and Transportation Demand Management Plan.

POLICY 5 TRANSIT. Ensure that the transit system will be a key component in stimulating economic development in the Central City, supporting the density and diversity of activities that lead to high levels of pedestrian and bicycle trips, minimizing automobile congestion, and improving air quality.

POLICY 6 DEMAND MANAGEMENT. Increase the demand and availability of transit and ridesharing, and support walking and bicycling and other alternatives to the single-occupant vehicle in every district of the Central City.

PBOT Response: With a requirement for the applicant to

submit for a Parking Management Plan and TDM plan prior to approval of a CCPR for additional MAC parking on the site, this policy can be better met.

POLICY 7 PEDESTRIAN NETWORK. Support the Central City as a pedestrian-friendly environment with good pedestrian connections to adjacent neighborhoods and a high level of pedestrian activity due to the availability, accessibility, convenience, safety, and attractiveness of the pedestrian network.

POLICY 8 BICYCLE MOVEMENT. Develop a bicycle plan for the Central City that establishes a bicycle route network, and develop strategies, including setting priorities, for implementation of programs and projects.

Response: Transit, pedestrian, and bicycle transportation will be fully accommodated and encouraged in the proposed Block 7 development. The close proximity to TriMet light rail and bus service will encourage transit use by residents of the residential uses at Block 7. For pedestrian uses, Block 7 will be developed with sidewalks, curb cuts, and signage constructed to City standards. Finally, the improved traffic circulation demonstrated in the TIA will improve bicycle and pedestrian safety and movement during peak hours.

Transportation Planning Rule (TPR)

As described previously in this Analysis, the proposed apartments on Block 7 are allowed outright (except for the 16 MAC units) under the current zoning. The MAC parking on this Block requires a Zone Change and Comprehensive Plan amendment that addresses, among other policies, Oregon Administrative Rule (OAR) 660-12-0060, also known as the Transportation Planning Rule (TPR). The TPR sets forth the criteria for evaluating plan and land use regulation amendments. Table 5 summarizes the criteria in Section 660-012-0060 and their applicability to the proposed zone change and Comprehensive Plan amendment.

Summary of Criteria in OAR 660-012-0060

Section	Criteria	Applicable?
1	Describes how to determine if a proposed land use action results in a significant impact.	Yes
2	Describes measures for complying with Criteria #1 where a significant impact is determined.	No
3	Describes measures for complying with Criteria #1 and #2 without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility	No
4	Determinations under Criteria #1, #2, and #3 are	No

	coordinated with other local agencies.	
5	Indicates that the presence of a transportation facility shall not be the basis for an exception to allow development on rural lands.	No
6	Indicates that local agencies should credit developments that provide a reduction in trips.	No
7	Outlines requirements for a local street plan, access management plan, or future street plan.	No
8	Defines a mixed-use, pedestrian-friendly neighborhood	No
9	Indicates that there is not a significant affect if the proposed zoning is consistent with existing plans	No
10	Defines a multi-modal mixed-use area (MMA) and the requirements that support it.	No
11	Encourages establishment of traded-sector jobs	No

As noted in Table 5, there are 11 criteria that apply to Plan and Land Use Regulation Amendments. Of these, only Criterion 1 is applicable to this proposed land use action. This criterion is provided below in italics with the applicant's response shown in standard font.

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to,

transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

Response: The intent of the zone change and Comprehensive Plan amendment is to enable the provision of the additional MAC parking on Block 7. Given that the proposed zoning (CX) would enable more intensive land uses (and higher trip generation) than the existing RH zoning, Mill Creek Residential has limited the land uses to the uses in the Project and no other uses. As discussed previously, the additional MAC parking on Block 7 will not generate any new trips. It is not tied to any increase in membership or building size at the club. The additional MAC parking on Block 7 is intended to increase the amount of MAC on-site parking and reduce the MAC's impact on the on-street parking supply within the Goose Hollow neighborhood and reduce the MAC's reliance on the secondary parking lots. Further, providing access via the existing garage will reduce traffic circulation in the Goose Hollow neighborhood. Therefore, there are no impacts associated with the provision of the MAC related parking. By limiting the uses allowed on-site to only those uses included in the Project, the Comprehensive Plan amendment and zone change proposals will not result in traffic levels that change or degrade the performance of the existing or future transportation system. Therefore, this provision of the TPR can be met.

RECOMMENDATION

PBOT has no objection to approval of the requested Comprehensive Plan Amendment / Zone Map Change (CP ZC) from RH to CX subject to the following conditions:

- The site is limited to a maximum of 296 dwelling units.
- If approved through a future Central City Parking Review

the site shall be limited to a maximum of 225 below grade parking spaces for use by the MAC.

- No existing or future driveways on Block 7 may be used for vehicle access to any commercial parking for the MAC.
- Prior to a future Central City Parking Review (CCPR) the MAC shall be required to submit a Parking Management Plan and Transportation Demand Management (TDM) plan to PBOT Active Transportation. The Parking Management and TDM Plan shall include:
 1. documentation of then-current and projected post-development mode shares to the site(s);
 2. mode share targets for three years, ten years and twenty years based on adopted city, regional and state policies;
 3. facilities, financial, information and education strategies likely to achieve the mode share targets;
 4. regular mode share reporting requirements;
 5. contingency strategies and enforcement mechanisms to ensure targets are met.

The TDM and Parking Management Plan shall be developed with and approved by PBOT Active Transportation prior to approval of any CCPR. (Exhibit E.2)

Goal 7 Energy

Promote a sustainable energy future by increasing energy efficiency in all sectors of the city by ten percent by the year 2000.

Findings: The applicant's response to Goal 7 is that the "proposed Apartments and parking contemplated by this application will incorporate energy efficient and sustainable designs and materials throughout, in compliance with all applicable energy and building code standards." In contrast, the GHFL Block 7 Planning Committee and others argue that the MAC parking will encourage fuel consumption because of the anticipated increase in vehicle trips. Staff reads the policies to be directed toward the City, as a jurisdiction, to implement energy-related strategies. Therefore, Goal 7 policies are not applicable to this proposal.

Hearings Officer Findings: Opponents dispute the BDS Staff findings based on an assertion that the proposed additional off-street parking spaces will generate new trips, and therefore, result in additional energy consumption.

BDS Staff found that the language of Goal 7 is directive to the City itself rather than applicable to individual applications. The Hearings Officer views the term "promote" to denote an aspirational objective that is typically interpreted to provide guidance to the drafting and adoption of other planning guidelines and criteria. Therefore, looking at the text of the policy, I agree with staff's view that it is not intended to be an approval criteria for plan and map amendment applications.

Goal 8 Environment

Maintain and improve the quality of Portland's air, water and land resources and protect neighborhoods and business centers from detrimental noise pollution.

Findings: In response to the application, the GHFL Block 7 Committee's written testimony states that the proposal conflicts with Goal 8 for the following reasons:

Goose Hollow residents have a number of livability concerns. The excessive mass of the proposed building necessitates removing all of the 40 large trees and other vegetation on the block which destroys the habitat for a wide variety of animal life. This removes the natural purification system and significantly degrades local water quality. The proposed green roof will only partially off-set this loss of flora. Meanwhile, increased congestion on the small area streets will increase air and noise pollution which will additionally degrade livability for area residents. Escalated traffic congestion and parking caused by the proposed project will also significantly threaten pedestrian and cycling safety. Neighbors are also concerned about the landslide and seismic conditions which are not addressed by the applicant. Using the precautionary principle, the applicant should be required to conduct a comprehensive geologic study that concretely explains such risks to residents, as well as city officials. Exhibit H.7

Staff has considered these concerns, but finds that the proposal equally supports the policies, as explained below.

8.2 Central City Transportation Management Plan

The Central City Transportation Management Plan will guide future city efforts in maintaining air quality standards in the central business district and allow for expanded employment and housing opportunities throughout the Central City.

8.3 Air Quality Maintenance Strategies

Implement the action elements of the Central City Transportation Management Plan and ozone maintenance plan that will provide for long-term maintenance of air quality standards.

8.4 Ride Sharing, Bicycling, Walking, and Transit

Promote the use of alternative modes of transportation such as ridesharing, bicycling, walking, and transit throughout the metropolitan area.

Findings: As discussed above under Goal 6, relevant transportation policies including those in the CCTMP will be equally or better supported with the new designation if conditions are applied to set development parameters—dwelling unit and parking space maximums. To support numerous Central City and CCTMP policies, staff recommends a condition that

requires the submission of a Parking Management Plan and TDM Plan when the applicant requests additional “preservation parking” to serve the MAC facility. The designation supports these policies.

Hearings Officer Findings: Based on the findings for Goal 6 Transportation as discussed above and incorporated here by reference, the Hearings Officer agrees with BDS Staff that the CX zone supports Policies 8.2-8.4.

8.9 Open Space

Protect Portland Parks, cemeteries and golf courses through an Open Space designation on the Comprehensive Plan Map.

8.10 Drainageways

Regulate development within identified drainageways for the following objectives:

Objectives:

A. Stormwater runoff

Conserve and enhance drainageways for the purpose of containing and regulating stormwater runoff.

B. Water quality and quantity

Protect, enhance, and extend vegetation along drainageways to maintain and improve the quality and quantity of water.

C. Wildlife

Conserve and enhance the use of drainageways where appropriate as wildlife corridors which allow the passage of wildlife between natural areas and throughout the city, as well as providing wildlife habitat characteristics including food, water, cover, breeding, nesting, resting, or wintering areas.

Findings: Contrary to the points raised by the neighbors, staff finds that because the property is not designated as Open Space or as a protected resource—environmental or scenic, the removal of trees and development of the site is allowed with either the existing or proposed designation. All development must address BES stormwater management requirements. Both detention and water quality requirements will be required at Building Permit Review, as noted in the BES response (Exhibit E.1). The requested designation equally supports these policies.

Hearings Officer Findings: Neighbors are understandably concerned about the potential loss of the trees, vegetation and de facto open space that currently exists on the subject property. However, BDS Staff is correct to state that since the property is not designated as open space, or as a protected resource, those trees will not be protected under either RH or CX zoning. Similarly, the record does not appear to identify a regulated “drainageway” on the subject property for the purposes of Policy 8.10. In any case, the Hearings Officer agrees with BDS Staff that BES stormwater requirements will apply to future development at the time of Building Permit Review. There is no evidence in the record showing that those

standards cannot be met. I agree with staff that the proposed CX zone equally supports these policies.

8.13 Natural Hazards

Control the density of development in areas of natural hazards consistent with the provisions of the City's Building Code, Chapter 70, the Floodplain Ordinance and the Subdivision Ordinance.

Findings: Numerous letters have been submitted that raise concerns about the mapped "pre-historic landslide" that is identified on the *Interpretive Map 33, Landslide Inventory Map of the Northwest Quarter of the Portland Quadrangle, Multnomah and Washington Counties, Oregon 2010*. The BDS Site Development response, with attached maps and informational "fact sheet," identify a very large area that appears to extend southward to the upper portion of Washington Park, through the International Rose Garden area and King's Hill residential area to W Burnside and the Providence Park Stadium. Given the site is steeply sloped and given the characteristics of the historic landslide, the BDS Site Development Section will require at the time of Building Permit review a soils report with a quantitative slope stability analysis that demonstrates adequate factors of safety for static and seismic conditions. The proposed development will be subject to all Building Code and requirements of other development codes. The proposed designation equally supports this policy.

Hearings Officer Findings: The neighbors voice concerns about the geologic stability of Block 7 and request that a geologic hazards review be conducted prior to approval of the proposed map amendments. Other than citing the same information discussed by BDS Staff above, there is no specific evidence in the record that indicates that the subject property is any more stable or unstable as a result of the underlying geology than surrounding properties – for example the Legends.

The text of Policy 8.13 is directed at controlling "the density of development" in areas of natural hazards" - not prohibiting such development. Future development that can be shown to meet the City's Building Code can be allowed. While the neighbors raise the specter of potential problems for the future development as proposed, there is no evidence that the resulting residential building, including the parking area and tunnel, cannot satisfy the building code. The Hearings Officer agrees with staff that the proposed CX zone equally supports this policy.

Goal 9 Citizen Involvement

Improve the method for citizen involvement in the on-going land use decision-making process and provide opportunities for citizen participation in the implementation, review and amendment of the adopted Comprehensive Plan.

Findings: The proposal is consistent with relevant policies 9.1 and 9.3 and therefore is consistent with Goal 9. An analysis of the applicable policies is provided below.

Policy 9.1 Citizen Involvement Coordination

Encourage citizen involvement in land use planning projects by actively coordinating the planning process with relevant community organizations, through the reasonable availability of planning reports to city residents and businesses, and notice of official public hearings to neighborhood associations, business groups, affected individuals and the general public.

Policy 9.3 Comprehensive Plan Amendment

Allow for the review and amendment of the adopted Comprehensive Plan which insures citizen involvement opportunities for the city's residents, businesses and organizations.

Findings: The applicant submitted a list of neighborhood meetings, attended by the applicant, to discuss this proposal. In response to this goal, the GHFL Block 7 Planning Committee raised the following concerns:

If the zone change to CX with restrictive covenant is approved, neighborhood involvement in future changes on Block 7 will be significantly impaired given public notice, meetings and hearings would not need to be held under such a restrictive covenant. Area residents are also very concerned about the efficacy of the proposed restrictive covenant itself. Unanticipated changes to the CX zoning designation that are not allowed under RX would harm the interests of individual Block 7 residents as well as neighbors. The proposed restrictive covenant could permit uses under CX that are not allowed under RH, for example, overnight trash pickup. Also, as mentioned above, owners of Block 7 could open negotiations with the City at virtually any time to remove restrictions on Block 7 or even cancel the covenant ... without involving neighbors (Exhibit F.32).

A covenant that would run with the land could be a useful tool to provide assurance to concerned neighbors. Generally, covenants are used when owners/developers wish to apply requirements or restrictions on property that would not generally be enforced by a local jurisdiction such as "homeowners' rules" for a subdivision. For land use reviews, staff recommends conditions of approval be applied to ensure that the construction and/or operation of the approved proposal will conform to applicable review criteria. Furthermore, Zoning Code section 33.730.140 identifies the review criteria and procedures (notification and timeline) that must be used to amend conditions. A covenant could be changed outside of the required public process for a land use review. For these reasons, staff is recommending conditions of approval rather than relying on the content of a separate (private) restrictive covenant agreement.

The City and the applicant have complied with the mandated neighborhood notification requirements identified in the Portland Zoning Code. This includes posting the site with a description of the proposal at least 30 days prior to the hearing and a hearing notice mailed

to nearby property-owners, and the affected neighborhood associations, district coalition office, and business association. The notice is intended to elicit public input. And, there is the opportunity to participate in public hearings before the Hearings Officer and City Council. Additionally, public hearings will be required in the future for the Design Review and CCPR. As such, this land use review supports these policies.

Hearings Officer Findings: The record, as discussed by BDS Staff above, amply demonstrates that the application meets citizen involvement policies. The concern raised about the restrictive covenant has been addressed by staff's proposed Condition C. as discussed in prior findings above.

Goal 10 Plan Review and Administration

Portland's Comprehensive Plan will undergo periodic review to assure that it remains an up-to-date and workable framework for land use development. The Plan will be implemented in accordance with State law and the Goals, Policies and Comprehensive Plan Map contained in the adopted Comprehensive Plan.

Findings: As identified below, the proposal supports the relevant policies under this goal.

10.5, Corresponding Zones and Less Intense Zones

Corresponding zones are zones that best implement a Comprehensive Plan Map designation. Base zones must either be the zone corresponding to the designation, or be a zone less intense than the corresponding zone. When the Comprehensive Plan Map is amended legislatively and the underlying base zones are more intensive than allowed by the amended Plan Map, the zones are automatically changed to corresponding zones. When the Comprehensive Plan Map is amended through a quasi-judicial review and the underlying base zone is more intensive than allowed by the amended Plan Map, the zone must be changed to a corresponding zone as part of the review. In either situation, when the underlying base zone is less intensive than the corresponding zone, the underlying zone may remain. Base zones that are corresponding, less intense, and more intense for each designation are shown in Table 10.4-1.

Findings: The applicant requests a Comprehensive Plan Map Amendment from the High Density Multi-Dwelling designation to the Central Commercial designation with a Zoning Map Amendment to CX. Because the CX zone corresponds with the Central Commercial designation, this policy is equally supported.

Policy 10.7, Amendments to the Comprehensive Plan Map:

The Planning and Sustainability Commission must review and make recommendations to the City Council on all legislative amendments to the Comprehensive Plan Map. Quasi-judicial amendments to the Comprehensive Plan Map will be reviewed by the Hearings Officer prior to City Council action, using procedures stated in the zoning code. For quasi-judicial amendments, the burden of proof for the amendment is on the applicant. The applicant must show that the requested change is:

(1) Consistent and supportive of the appropriate Comprehensive Plan Goals and Policies,

Findings: The analysis and findings in this report demonstrate that the proposed Plan Map Amendment is, on balance, equally or more supportive of relevant goals and policies of the adopted Comprehensive Plan.

(2) Compatible with the land use pattern established by the Comprehensive Plan Map,

Findings: The application explains, "The land-use pattern for the surrounding area includes a range of residential (single family and high density multi-dwelling projects) and commercial uses zoned RH and CX. The Applicant's proposal harmoniously reflects this land use pattern by combining the high density apartment use contemplated under the existing RH zoning with the additional MAC Parking allowed under the CX zoning."

The MAC facility and other sites that are located directly north of Block 7 are designated as Central Commercial. Also, properties to the south, between SW Main and SW Jefferson, are also designated with the Central Commercial designation. There are residentially-developed sites, on blocks immediately to the east and west, which are designated as High-Density Multi-Dwelling. The requested change is compatible with the existing designations and development pattern.

Hearing Officer Findings: The BDS Staff findings above are adequate to show compliance with Goal 10 Plan Review and Administration. The neighbors object under this section to the applicant's request for "commercial parking and hostelling." As noted in the staff report, no commercial parking is requested. The 225 proposed MAC parking stalls are for MAC members only. Similarly, the proposal contemplates the 16 hotel suites to be reserved for MAC members and guests. The RH and CX zones differ very little with respect to what is likely to develop on Block 7 in the future. I agree with staff that the proposal is compatible with the land use pattern in the area, and the proposal supports Goal 10.

(3) Consistent with the Statewide Land Use Planning Goals, and

Findings: The State of Oregon Land Conservation and Development Commission (LCDC) has acknowledged the Comprehensive Plan for the City of Portland. The city goals mentioned in "LCDC and Comprehensive Plan Considerations" are comparable to the statewide planning goals in that 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 the local issues of neighborhoods. 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 and 7 (Environmental Impacts); and City Goal 9, State Goal 1 (Citizen Involvement). City Goal 10 addresses city plan amendments and rezoning; and City Goal 11 is similar to State Goal 11 (Public Facilities and Services).

Other statewide goals relate to agricultural, forestry and coastal areas, etc., and therefore do not specifically apply to this site.

Staff finds that the proposal is consistent with Statewide Planning Goals, consistent with the applicant's analysis, provided below:

Goal 1: Citizen Involvement

Response: Goal 1 requires each city and county to have a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process. This application is being processed consistent with the City's citizen involvement program, which provides for public notice and participation as discussed above in response to City of Portland Goal 3. Finally, since this is a Type III application, both the Hearings Officer and the City Council will hold public hearings to allow the submission of oral and written testimony prior to issuing a final decision on the application.

Goal 2: Land Use Planning

Response: Goal 2 outlines the basic procedures of Oregon's statewide planning program. This application is submitted pursuant to the procedures set forth in the City's code, particularly PCC Chapter 33.730, and is therefore consistent with Goal 2 land use planning requirements.

Goal 3: Agricultural Lands, and Goal 4: Forest Lands

Response: Goal 3 seeks to preserve and maintain agricultural lands for farm use.

Goal 4 seeks to preserve and maintain forest lands for forest use. Because the subject property is urban land, Goal 3 and Goal 4 do not apply to this application.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural resources

Response: Goal 5 seeks to protect natural resources and conserve scenic and historic areas and opens spaces by requiring local governments to develop programs to inventory and protect such resources consistent with Goal 5 guidelines and administrative rules. Specifically, Goal 5 requires the City conduct an "ESEE" analysis where a proposed plan or zone amendment will significantly affect a Goal 5 resource.

Goal 5 is not triggered by this application because the subject property does not contain any inventoried Goal 5 resources and the proposed plan and zone amendments will not amend the City's Goal 5 inventory.

Goal 6: Air, Water, and Land Resource Quality

Response: Goal 6 protects the environmental quality of the state's air, water and land. Goal 6 requires local

governments to ensure that waste and process discharges from future development will comply with state and federal environmental quality regulations.

The Applicant will apply with all applicable state and federal environmental quality regulations in conjunction with the design, development, and operation of Block 7. Moreover, as discussed above, the proposed Apartments are permitted under the existing zoning. Thus, only change in the use of Block 7 contemplated by this application is the additional MAC Parking. Since these additional parking spaces will improve current traffic conditions, it is reasonable to assume that there will be a corresponding benefit to air quality and noise associated with this proposal.

Goal 7: Areas Subject to Natural Disasters

Response: The subject property is located within a mapped landslide area established by the Oregon Department of Geology and Mineral Industries. A geotechnical engineering report providing a slope stability analysis for the site is provided as Exhibit H. The report demonstrates that the improvements will not increase any landslide risks associated with the site. If necessary, the applicant will also commission a site specific seismic hazard study if the proposed building qualifies as a "major structure under ORS 455.447(1)(c).

Goal 8: Recreational Needs

Response: Goal 8 requires local jurisdictions to inventory their existing recreational areas, facilities, and opportunities to determine the existing and future recreational needs for citizens and visitors and to provide for the siting of recreational facilities to meet the inventoried needs. The subject property, while vacant land, is not located within any recreational area, facility, or opportunity designated by the City pursuant to Goal 8. Therefore, Goal 8 does not apply to this application.

Goal 9: Economic Development

Response: Goal 9 encourages the provision of adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens. The construction of the proposed development contemplated by this application will enhance the City by providing construction related jobs during the construction phase and by providing new customers for existing and new commercial uses in the City once construction is complete. Further, the additional MAC Parking spaces will benefit both the MAC and surrounding businesses through the improvement of current traffic conditions.

Goal 10: Housing

Response: Goal 10 requires local jurisdictions to meet local housing needs. The applicant has committed to developing the Apartments on the subject site consistent with the current RH zoning and will execute a restrictive covenant to ensure that no other commercial uses will be allowed on the subject property. Therefore, Goal 10 is satisfied.

Goal 11: Public Facilities

Response: Goal 11 requires local governments to plan and develop a timely, orderly, and efficient arrangement of public facilities and services. As discussed above in the response to Portland Comprehensive Plan Goal 11, all public services for the functioning of the proposed development are or will be available and adequate to serve the subject property. These services include streets, street improvements, sidewalks, water and sanitary sewer services, stormwater drainage, and public safety.

Goal 12: Transportation

Response: Goal 12 is implemented through the Transportation Planning Rule ("TPR") set forth at OAR 660-12-0060. The TPR requires that if a plan or zone amendment "significantly affects" a transportation facility, the City must put in place one or more mitigation measures specified in OAR 660-012-0060(2). OAR 660-012-0060(1) provides that a plan amendment or zone change "significantly affects" a transportation facility if it would: (1) change the functional classification of an existing or planned transportation facility (OAR 660-012-0060(1)(a)); (2) change the standards implementing a functional classification system; (3) allow types, levels of travel, or access that are inconsistent with the functional classification of the facility (OAR 660-012-0060(1)(c)(A)); (4) reduce the performance of a transportation facility below the minimum acceptable standard identified in the relevant TSP (OAR 660-012-0060(1)(c)(B)); or (5) worsen the performance of a facility that is projected to perform below the minimum acceptable standard, in the relevant TSP (OAR 660-012-0060(1)(c)(C)). For the third through fifth types of "significant affect," the amount of traffic projected to be generated by the proposal may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation. In such event, the City is not required to evaluate the most intensive uses allowed under the new zone.

The TIA prepared by Kittelson & Associates attached as Exhibit D provides a detailed analysis of the proposal's compliance with the TPR. As set forth in the TIA, the proposed plan and zone amendments will not have a significant effect on any transportation facility because

the proposals include a restrictive covenant, as described above, which limits the potential uses to only those allowed under the existing RHd zoning plus the MAC Uses. The MAC Uses are not expected to generate any new vehicle trips because there is no corresponding increase in the size or membership of the MAC. Instead, the Block 7 MAC Parking will merely redistribute existing trips from the current MAC parking garage. Finally, the proposed amendments are expected to improve traffic operations at the SW 20th Avenue/SW Jefferson Street intersection, even though this intersection is expected to maintain a LOS "F" during the weekday p.m. peak hours.

The TIA recommends the following mitigation measures to ensure that all impacts of the proposed development are minimized:

Maintain landscaping and shrubbery near internal intersections and sight access points to ensure adequate sight distance.

Execute a covenant to restrict uses allowed under the proposed CX zoning to the proposed residential units allowed under the existing RH zoning and the MAC related uses.

For the forgoing reasons and the additional analysis provided in the TIA, Goal 12 is satisfied by this application.

Goal 13: Energy Conservation

Response: Goal 13 requires land uses to be developed and managed so as to maximize the conservation of all forms of energy. The proposed development maximizes the efficient use of land and energy by incorporating both the high density residential development contemplated by the current RH zoning and the additional necessary MAC parking allowed through the proposed CX zoning. The proposal will reduce vehicles circling the area looking for parking during peak hours and thereby conserve energy. Additionally, the proposed development has been and will continue to be designed, engineered, and constructed to maximize energy efficiency, applying sustainable design principles to both the building envelope and site design.

Goal 14: Urbanization

Response: The subject property is located within the Metro UGB and therefore further urbanization is not necessary for this property.

Goals 15-19:

Response: These goals govern the Willamette River Greenway, Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources. Goals 15 through 19 are not relevant to this application. (Exhibit A.1)

Hearings Officer Findings: FOGH and other opponents argued at the hearing and in written submissions that the proposal is inconsistent with Statewide Planning Goals 6 and 8 (Exhibit H.5, H.52 and H.54).

Goal 6

The applicant responds that the record shows that consolidating parking in an expanded garage will reduce vehicle trips, in particular single occupancy vehicle trips (Exhibit H.55a). This outcome should improve local air quality, they argue.

The relevant requirement of Goal 6 with respect to air quality is that land uses shall not "degrade such resources." Although the opponents have placed information into the record which purports to show that nearby air quality is poor, the information is not specific enough as to the connection between increased residential use and poor air quality. Simply positing that an increase in vehicles equals air quality violations under Goal 6 is not enough. The discussion above in the findings for Goal 6 Transportation strongly indicate that the additional 225 proposed MAC parking spaces have the potential to reduce the time members spend circulating through the neighborhood. This, along with the staff's observation that the applicant will be required to comply with any applicable DEQ regulations is sufficient to find consistency with Goal 6.

Goal 8

FOGH argues that the BDS Staff findings are inadequate because there is no analysis of the adequacy of recreational facilities in the area (Exhibit H.54). BDS Staff and the applicant argue that Block 7 is not included in any adopted inventory of recreational spaces, and therefore, Goal 8 is not applicable (Exhibit H.55a).

Goal 8 directs local governments to plan for citizens recreational needs. The Hearings Officer acknowledges that some neighbors have suggested that part of Block 7 be dedicated to a pocket park or some other open space function. However, those ideas are not supported by either the RH or CX zone. Since neither the RH nor CX zoning contemplate recreational uses, and Block 7 is not designated as such on any other inventory, the proposal is not required to address Goal 8.

(4) Consistent with any adopted applicable area plans adopted as part of the Comprehensive Plan.

Findings: As previously discussed above in this recommendation, with transportation-related conditions, this proposal is equally supportive of the adopted Central City Plan.

Policy 10.8 Zone Changes

Base zone changes within a Comprehensive Plan Map designation must be to the corresponding zone stated in the designation. When a designation has more than one

corresponding zone, the most appropriate zone will be applied based on the purpose of the zone and the zoning and general land uses of surrounding lands. Zone changes must be granted when it is found that public services are presently capable of supporting the uses allowed by the zone, or can be made capable prior to issuing a certificate of occupancy. The adequacy of services is based on the proposed use and development. If a specific use and development proposal is not submitted, services must be able to support the range of uses and development allowed by the zone. For the purposes of this requirement, services include water supply, sanitary sewage disposal, stormwater disposal, transportation capabilities, and police and fire protection.

Findings: The Central Commercial designation has only one corresponding zone, the Central Commercial (CX) zone, which implements the designation. The applicant is requesting a Comprehensive Plan Map and concurrent Zoning Map Amendment Review to change the current designation and zoning on the site. This policy is addressed through this land use review, specifically in Part B of this recommendation. To the extent that applicable approval criteria of 33.855.050.A-D contained in this recommendation are met, this policy is supported.

Goal 11A Public Facilities

Provide a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities.

Policy 11.2 Orderly Land Development

Urban development should occur only where urban public facilities and services exist or can be reasonably made available.

Policy 11.4 Capital Efficiency

Maximum use of existing public facilities and services should be supported through encouraging new development to occur at the maximum densities allowed by the Comprehensive Plan and through the development of vacant land within presently developed areas.

Findings: The proposal equally supports Goal 11 and Policies 11.2 and 11.4. Agency responses to this proposal indicate that either services exist or can be reasonably made available as discussed under approval criterion 33.855.050.B, below and in Exhibits E.1-E.5.

GOAL 12: Urban Design

Enhance Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations.

Findings: The proposal is consistent with Goal 12 and its policies, which is intended to enhance Portland's identity as a livable city with attractive amenities. A detailed analysis of the applicable policies follows, below.

12.1 Portland's Character

Enhance and extend Portland's attractive identity. Build on design elements, features and themes identified with the City. Recognize and extend the use of City themes that establish a basis of a shared identity reinforcing the individual's sense of participation in a larger community.

Policy 12.2 Enhancing Variety

Promote the development of areas of special identity and urban character. Portland is a city built from the aggregation of formerly independent settlements. The City's residential, commercial, and industrial areas should have attractive identities that enhance the urbanity of the City.

Objective C. Foster the development of an attractive urban character along Portland's commercial streets and in its commercial districts. Accommodating pedestrians as shoppers and visitors in commercial areas is a major priority of development projects. Commercial areas should allow the development of a mixture of uses, including residential uses. Add new building types to establish areas with care and respect for the context that past generations of builders have provided.

12.4 Provide for Pedestrians

Portland is experienced most intimately by pedestrians. Recognize that auto, transit and bicycle users are pedestrians at either end of every trip and that Portland's citizens and visitors experience the City as pedestrians. Provide for a pleasant, rich and diverse experience for pedestrians. Ensure that those traveling on foot have comfortable, safe and attractive pathways that connect Portland's neighborhoods, parks, water features, transit facilities, commercial districts, employment centers and attractions.

Findings: With either the existing or proposed designation, the subject site and surrounding properties are within a Design district which requires Design Review. The Goose Hollow Design Guidelines will be used to evaluate the project. The Design Review will take into consideration the existing context, the human scale and the pedestrian experience. The proposed designation will equally support these policies.

Hearings Officer Findings: The neighbors argue that Goose Hollow is a place that is anchored by Victorian style homes and extensive tree canopy. They feel that adding MAC parking under a residential structure will generate more vehicles to the neighborhood and diminish its charm (Exhibit H.7).

The policies discussed above deal primarily with the aesthetics of Portland and its neighborhoods. According to the text of this policy, the look and feel of the neighborhoods

is mostly experienced by pedestrians either as they walk or are coming to and from their cars. The change from RH to CX zoning under the current proposal will not be perceptible as to the ultimate look of future residential buildings. The proposed parking will be underground and accessed through a tunnel from the existing garage. The parking area will not have any effect on the look of the future residential buildings. As for traffic impacts, the record shows that the proposal has the potential to reduce trips in the neighborhood by increasing off-street parking and making it easier for MAC members to utilize that parking. These policies are equally supported by this proposal.

12.6 Preserve Neighborhoods

Preserve and support the qualities of individual neighborhoods that help to make them attractive places. Encourage neighborhoods to express their design values in neighborhood and community planning projects. Seek ways to respect and strengthen neighborhood values in new development projects that implement the Comprehensive Plan.

Objectives.

- A. Encourage new developments to respond to the positive qualities of the place where they are to be built and to enhance that place through their development. Developers should consider the character enhancing role played by the use of color and light.*
- B. Respect the fabric of established neighborhoods when undertaking infill development projects.*
- C. While accommodating increased density build on the attractive qualities that distinguish the area. Add new building types to established area with care and respect for the context that past generations of builders have provided.*

12.7 Design Quality

Enhance Portland's appearance and character through development of public and private projects that are models of innovation and leadership in the design of the built environment. Encourage the design of the built environment to meet standards of excellence while fostering the creativity of architects and designers. Establish design review in areas that are important to Portland's identity, setting, history and to the enhancement of its character.

Objectives:

- A. Establish design districts and historic design districts for areas of attractive character within the City. Use design zones to enhance the character of the area. Establish guidelines of design acceptability that ensure continuation of each design district's desired character. Design guidelines should make the public's objectives for the design review process clear to those developing property.*
- B. Continue the design review process to ensure public review of public and private development proposals at locations linked with Portland's character, setting, history, identity and image. Consider the details of development projects as well as the impacts of the project as a whole.*

Findings: The City Council adopted the Goose Hollow Design Guidelines to “express the design values” and special considerations for the area. The proposal will be subject to a Type III Design Review which will entail a hearing before the Portland Design Commission. The requested designation equally supports this policy.¹

Summary: Based on these findings, with conditions, BDS Staff found, and the Hearings Officer agrees, that the requested Comprehensive Plan Map amendment to Central Commercial is, on balance, equally or more supportive of the applicable *Comprehensive Plan* goals and policies as is the existing High-Density Multi-Dwelling designation.

33.810.050 Comprehensive Plan Map Approval Criteria

A.2. 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. In zones where density is regulated by floor area ratios, a standard of 900 square feet per unit is used in the calculation and the maximum floor area ratio is used. Exceptions are:

- (1) In the RX zone, 20 percent of allowed floor area is not included;
- (2) In the R3, R2, and R1 zones, the amenity bonus provisions are not included;
and
- (3) In the CM zone, one half of the maximum FAR is used.

¹ The opponents argue that Policy 12.8 is applicable. The Hearings Officer disagrees because that policy is a directive to the planning process and is not applicable to a quasi-judicial map amendment.

- (4) Where a residentially zoned area is being used by an institution and the zone change is to the Institutional Residential zone, the area in use as part of the institution is not included.
 - (5) Where a residentially zoned area is controlled by an institution and the zone change is to the Institutional Residential zone the area excluded by this provision also includes those areas within the boundaries of an approved current conditional use permit or master plan.
- 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: The proposal includes a requested amendment from residential to commercial, and therefore the provisions for no net loss in housing potential are applicable. The housing unit potential of the subject site, currently under RH zoning, is 194 units.

The applicant proposes a covenant that agrees to use the property for "Dwelling Units and MAC Uses." Staff does not find the covenant to be adequate or appropriate for this land use

review. In order to address this criterion, staff recommends a condition that will require the construction of at least 194 dwelling units on the site. With this condition, this criterion is met. Note that due to possible traffic capacity constraints, the PBOT staff is recommending a cap on the allowed number of units (residential dwellings and 16 short-stay studios) at 296.

3. When the requested amendment is from an Industrial Sanctuary or Mixed Employment Comprehensive Plan Map designation, in order to prevent the displacement of industrial and employment uses and preserve land primarily for these uses, the following criteria must also be met:

Findings: This site is not located in area with an industrial or mixed employment Comprehensive Plan Map designation. Therefore, this criterion does not apply.

Summary: Based on the findings above, the proposal to amend the Comprehensive Plan Map designation for this site, from High-Density Multi-Dwelling to Central Commercial, meets all of the relevant approval criteria of 33.810.050.A.

PART B. ZONING MAP AMENDMENT

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: The proposed Comprehensive Plan Map designation is Central Commercial. This designation does not have more than one corresponding zone. Therefore, this criterion does not apply.

2. 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 site is not located within a Buffer overlay. Therefore, this approval criterion is not applicable.

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: Because this request does not involve a change from a higher-density residential zone to a lower-density residential zone, or from the CM zone to the CS zone, this criterion is not applicable.

B. Adequate public services.

1. Adequacy of services applies only to the specific zone change site.
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.
 - 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.
 - 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: With transportation-related conditions applied, staff finds that services are adequate, as explained below.

BES has no objection to approval of the Comprehensive Plan Map Amendment with concurrent Zone Map Amendment. The BES response includes the following information:

For this land use application to be approved, the applicant must show that the proposal complies with the approval criteria found in Portland City Code ("PCC"). BES has specific approval criteria identified under Chapter 33.855.050.B.2, 33.855.060.B,

and the Comprehensive Plan (Goal 11C, Policies & Objectives 11.14-11.22, and Goal 11D, Policies & Objectives 11.23).

BES reviewed information provided by the applicant for the requested Comprehensive Plan Map and Zoning Map Amendment to change the current designation and zoning on the approximate 40,000 SF site from the High Density Multi-Dwelling designation and zone (RH) to the Central Commercial designation and zone (CX). Based on the information provided, BES has determined the following:

BES Land Use Approval Criteria for Sanitary Waste Disposal Systems (PCC 33.855.050.B.2, 33.855.060.B, and the Comprehensive Plan Goals 11C and 11D): BES has determined that the sanitary sewer system in SW 20th Avenue currently has capacity to serve future development of this site under the proposed zoning. **Therefore, BES is satisfied that sanitary waste disposal approval criteria for the Zoning Map Amendment and adequacy of public services goals of the Comprehensive Plan Map Amendment have been met.**

BES Land Use Approval Criteria for Stormwater Disposal Systems (PCC 33.855.050.B.2, 33.855.060.B, and the Comprehensive Plan Goals 11C and 11D): BES reviewed the stormwater calculations (identifying the maximum stormwater runoff rates (for the 25-year storm event) for the maximum development potential of this site under the proposed zoning) provided by the applicant and assessed the public combined sewer system for receiving stormwater runoff from proposed development of this site. BES has determined that the combined sewer system in SW 20th Avenue currently has capacity to serve future development of this site under the proposed zoning. **Based on the information provided, BES is satisfied that stormwater disposal system approval criteria for the Zoning Map Amendment and adequacy of public services goals of the Comprehensive Plan Map Amendment can be met.**

A. SANITARY SERVICE

1. Existing Sanitary Infrastructure:

- a. There is a 12-inch vitrified clay public combined gravity sewer located in SW Main Street (BES project # 20220). Based on an analysis by BES Systems Analysis, surcharging and surface flooding is predicted to increase if discharge from this project is directed to this combined sewer.
- b. There is a 12-inch vitrified clay public combined gravity sewer located in SW 20th Avenue (BES project # 20297). Based on an analysis by BES Systems Analysis, the proposed project would have no negative impacts on the performance of this combined sewer.

- c. There is an 8-inch vitrified clay public combined gravity sewer located in SW 19th Avenue (BES project # 20251). Based on an analysis by BES Systems Analysis, surcharging and surface flooding is predicted to increase if discharge from this project is directed to this combined sewer.
2. *Public Sewer System Capacity:*
 - a. *Combined Sewer:* The combined sewer system currently surcharges under certain conditions. BES will allow sanitary connections, but stormwater discharges will be restricted. BES Systems Analysis has evaluated the capacity of the public combined sewer system and determined that the 12-inch combined sewer in SW 20th has sufficient capacity to receive sanitary flows from future development of this site. The combined sewers in SW Main and SW 19th do not have available capacity and should not be connected to.
 - b. Sufficient capacity is currently available in the public combined sewer in SW 20th Avenue to serve the sanitary disposal needs of this site under the proposed zoning. BES has determined that the information provided by the applicant is sufficient to meet BES sanitary waste and adequacy of public services goals of the Comprehensive Plan Map Amendment approval criteria for the requested Zoning Map Amendment.

B. STORMWATER MANAGEMENT

1. *Existing Stormwater Infrastructure:*
 - a. There is no public storm-only sewer available to this property. However, be aware that in the future BES plans to construct a storm system at SW Main and SW 19th.
 - b. BES Systems Analysis has evaluated the capacity of the public combined sewer system and determined that the 12-inch combined sewer in SW 20th has sufficient capacity to receive stormwater flows from this site if off-site discharge is determined necessary by BES at the time of development. The combined sewers in SW Main and SW 19th do not have available capacity and should not be connected to. *NOTE: At the time of building permit review, the ability to redirect storm-only flows to the future storm system may be requested by BES. Until the future storm system is constructed, storm-only flows should be directed to the public combined sewer in SW 20th.*
 - c. BES has coordinated with the MGH Planning & Engineering and reviewed the Technical Memorandum provided by MGH dated December 23, 2013/Revised May 5, 2014. In order to meet BES land use approval criteria which involves determining whether capacity of the public storm system is adequate to serve this

site, MGH provided stormwater calculations identifying the maximum stormwater runoff rates (for the 25-year storm event) for the maximum development potential of this site under the proposed CX zoning. The narrative also acknowledges that a more specific stormwater management plan will be provided and the project will comply with BES stormwater management requirements (including pollution reduction, flow control, and disposal requirements) when a specific design is reviewed by City staff at the time of Design Review.

- o *Public Sewer System Capacity:* BES Systems Analysis and BES Development Engineering have reviewed the stormwater calculations provided by the applicant and determined that sufficient capacity is available in the public combined sewer in SW 20th Avenue to serve the stormwater disposal needs of this site under the proposed zoning. BES has determined that the information provided by the applicant is sufficient to meet BES stormwater disposal system and adequacy of public services goals of the Comprehensive Plan Map Amendment approval criteria for the requested Zoning Map Amendment.
- o Remember that a specific stormwater management plan is not being approved at this time. A more detailed stormwater management plan will be provided and the project will need to comply with BES stormwater management requirements (including pollution reduction, flow control, and disposal requirements) when a specific design is reviewed by City staff at the time of Design Review and building permit review.
- *Ecoroofs:* Planted roofs (ecoroofs) are encouraged by the City as a sustainable method of stormwater management. By installing an ecoroof on all or a portion of your roof area, the size of additional required stormwater facilities may be reduced because it reduces the amount of impervious area on the site that needs to be managed. Ecoroofs also insulate the building, reducing heating and cooling costs, last many years longer than conventional roofs, and provide wildlife habitat. Refer to 2008 SWMM Section 2.3.3 (Facility Design Criteria) for additional information.

The Water Bureau response states the bureau has no issues with the requested Comprehensive Plan Map and Zoning Map Amendment Review, for the full block property located between SW Main Street and SW Madison Street, and SW 19th Avenue and SW 20th Avenue. The following information was submitted regarding available service:

There are nine services which provide water to the separate tax lot properties which compose this block property, and they are as follows:

1. 1125 SW 19th Ave - 5/8" meter (Serial #92028673, Account #2996324400).
The above listed service is provided water from the existing 8" DI water main in SW 19th Ave.
2. 1112 SW 20th Ave - 5/8" meter (Serial #21301349, Account #2996318200).
The above listed services are provided water from the existing 10" CI water main in SW 20th Ave.
3. 1918 SW Main St - 5/8" meter (Serial #20602687, Account #2996318400).
1111 SW 19th Ave - 5/8" meter (Serial #91030461, Account #2996318500).
The above listed services are provided water from the existing 6" CI water main in SW Main
4. 1903 SW Madison St - 5/8" meter (Serial #21202438, Account #2996324900).
909 SW Madison St - 5/8" meter (Serial #OUT01220, Account #2996325000).
1917 SW Madison St - 5/8" meter (Serial #20247246, Account #2996325500).
1923 SW Madison St - 5/8" meter (Serial #21202459, Account #2996325700).
1927 SW Madison St - 5/8" meter (Serial #21202460, Account #2996325600).
The above listed services are provided water from the existing 8" DI water main in SW Madison St.

Any of the above listed services may be potentially be retained for usage, but will then need to be reviewed by the Water Bureau for this proposed use. For any new water services, City code 21.12.010 will apply and a Water Bureau review for fixture count will need to be submitted by the applicant at the time of submittal of the building permit, along with any required fire flows needs, to appropriately size the water services and meter for this location, prior to the Water Bureau signing off on any building permits for this property. All applicable costs will be the responsibility of the applicant.

Also, City Title 21.12.070 will apply to this property location and properties, and states.... "the service connection to a parcel of land shall not be used to supply an adjoining parcel of a different owner, or to supply a separate parcel of the same owner for which proper application for service has not been made." A tax lot account consolidation will be required, prior to the Water Bureau signing off on any building permits or Land Use Reviews for development and design and selling any water services to this development, to meet this title requirement.

The estimated static water pressure range for this location is 45 psi to 65 psi depending on which street frontage the water services are

located on, with the average street frontage elevation range between 148 ft and 168 ft. (Exhibit E.3)

The Fire Bureau responded with no concerns or objections (Exhibit E.4).

The Police Bureau response states, "It has been determined that the Portland Police Bureau is capable of serving the proposed change at this time. As development progresses at this site, the Portland Police Bureau recommends that on-site persons and the developer work with Central Precinct Commander Robert Day on any public safety issues or concerns" (Exhibit E.5).

PBOT responded that transportation staff reviewed the applicant's narrative submittal and finds that with conditions, the requested Map Amendment address the approval criteria. The PBOT response to the transportation-related Zoning Map approval criteria is as follows:

In addition, in order to provide assurances to the neighborhood that other than the 225 parking spaces and 16 visitor units for the MAC, the remainder of the site will be limited to residential dwelling units. Furthermore, conditions of approval will limit the number of dwelling units (296) to what could be constructed under the existing RH zone designation.

A traffic study is not required because the site will be limited to the number of dwelling units that could be constructed under the existing zoning. If the development is limited to result in no net increase in vehicle trips over what is allowed by the existing zoning it is considered mitigation under PBOT's Administrative Rules for Traffic Capacity Analysis in Land Use Review Cases, specifically section 3.a.(i).

I. Administrative Rules for Traffic Capacity Analysis in Land Use Review Cases

For traffic impact studies required in the course of land use review or development, the following standards apply:

1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.
2. For stop-controlled intersections, adequate level of service is LOS E. Level of service for two-way stop-controlled intersections is based on individual vehicle movement, and all-way stop controlled intersections is based on a weighted average of vehicle delay for the intersection.
3. An amendment or other land use application that requires analysis of traffic capacity and allows development that either (1) may cause a transportation

facility to perform below the standards established in sections 1 and 2, or (2) adds vehicle trips to a facility that is already performing below the standards established in sections 1 and 2 may be approved if:

a. Development resulting from the amendment or other land use application will mitigate the impacts of the amendment or other land use application in a manner that avoids further degradation to the performance of the facility by the time of development through one or more of the following:

(i) the development is limited to result in no net increase in vehicle trips over what is allowed by the existing zoning; OR

(ii) one or more combination of transportation improvements or measures are imposed to mitigate the transportation impacts of the amendment or other land use application in a manner that avoids further degradation to the performance of the facility by the time of any development.

The cap of 296 residential dwelling units was arrived at by determining the reasonable worst case development scenario based on the amount of floor area that could be developed under the existing Central City RH height limits and Floor Area Ratio (FAR) bonuses and transfers and that could realistically be obtained. The number of weekday p.m. vehicle trips that would be generated by the 16 visitor units would be slightly less than those for apartment units and therefore will not create any more additional trips. Approval of this CP ZC does not guarantee that 296 dwelling units can be constructed. The development of the site must still be approved through a design review which will also determine the approvability of any FAR bonuses and density transfers.

PBOT will recommend conditions of approval limiting the development to 296 dwelling unit including 16 visitor units, and requires a TDM Parking Management Plan for any future approval of the 225 below grade parking spaces for use by the MAC.

As required by 33.800.060, the Burden of Proof is on the applicant to show the approval criteria are met. The burden is not on the City or other parties to show the criteria have not been met. The following findings have been provided by the applicant. With the exception of the following Policies: 6.25 Parking Management, 6.27 Off-Street Parking, and CCTMP Policy 4 Parking and Policy 6 Demand Management, PBOT staff generally concurs with the findings. In order to better meet the above

mentioned policies, PBOT recommends that prior to a future Central City Parking Review (CCPR) that the MAC be required to submit a Parking Management Plan and Transportation Demand Management (TDM) plan. The Parking Management and TDM Plan must include:

6. documentation of then-current and projected post-development mode shares to the site(s);
7. mode share targets for three years, ten years and twenty years based on adopted city, regional and state policies;
8. facilities, financial, information and education strategies likely to achieve the mode share targets;
9. regular mode share reporting requirements;
10. contingency strategies and enforcement mechanisms to ensure targets are met.

PBOT staff also recommends that all elements of the TDM and Parking Management Plan be developed with PBOT Active Transportation who has expertise in TDM plans. The Parking Management Plan and TDM Plan are not land use reviews.

Mill Creek Residential Trust is proposing to develop Block 7 in the Goose Hollow Neighborhood. Block 7 is bounded by SW Main Street to the north, SW 19th Avenue to the east, SW Madison Street to the south, and SW 20th Avenue to the west. The proposed development consists of up to 296 apartments, 191 parking stalls for residents, and 225 parking stalls for the Multnomah Athletic Club (MAC) (the "Project"). Sixteen of the apartment units will be used exclusively by the MAC for its members and their guests.

Response: A traffic study is not required because the site will be limited to the number of dwelling units that could be constructed under the existing zoning. If the development is limited to result in no net increase in vehicle trips over what is allowed by the existing zoning it is considered mitigation under PBOT's Administrative Rules for Traffic Capacity Analysis in Land Use Review Cases, specifically section 3.a.(i).

I. Administrative Rules for Traffic Capacity Analysis in Land Use Review Cases

For traffic impact studies required in the course of land use review or development, the following standards apply:

1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.
2. For stop-controlled intersections, adequate

level of service is LOS E. Level of service for two-way stop-controlled intersections is based on individual vehicle movement, and all-way stop controlled intersections is based on a weighted average of vehicle delay for the intersection.

3. An amendment or other land use application that requires analysis of traffic capacity and allows development that either (1) may cause a transportation facility to perform below the standards established in sections 1 and 2, or (2) adds vehicle trips to a facility that is already performing below the standards established in sections 1 and 2 may be approved if:

a. Development resulting from the amendment or other land use application will mitigate the impacts of the amendment or other land use application in a manner that avoids further degradation to the performance of the facility by the time of development through one or more of the following:

(i) the development is limited to result in no net increase in vehicle trips over what is allowed by the existing zoning; OR

(ii) one or more combination of transportation improvements or measures are imposed to mitigate the transportation impacts of the amendment or other land use application in a manner that avoids further degradation to the performance of the facility by the time of any development.

The cap of 296 residential dwelling units was arrived at by determining the reasonable worst case development scenario based on the amount of floor area that could be developed under the existing Central City RH height limits and Floor Area Ratio (FAR) bonuses and transfers and that could realistically be obtained. The number of weekday p.m. vehicle trips that would be generated by the 16 visitor units would be slightly less than those for apartment units and therefore will not create any more additional trips.

Street Improvements (Chapter 17.88)

Street Classification and Configuration

At this location, all four frontages; SW Main, SW Madison, SW 19th, and SW 20th are all classified as Local Service streets for all transportation modes in the City's Transportation System Plan. The site is located within a pedestrian district.

According to City database sources, the four streets are

improved with 36-ft of paving in 60-ft rights-of-way (r.o.w.). The frontages are improved with 0-12-0 sidewalk configurations. For a site located in the EX or RX zone districts along a Local (classification) street, the Pedestrian Design Guide recommends an 12-ft pedestrian corridor (0.5-ft curb/4-ft furnishing zone /6-ft/sidewalk/1.5-ft setback to the property line).

1. To accommodate the anticipated street improvements, no dedication of property for right-of-way purposes will be required. Depending on specific site conditions and stormwater management design, additional dedication may be required.
2. Given the proposed extent of the new development, reconstructing the sidewalks is likely to be required as a condition of building permit approval.

RECOMMENDATION

PBOT has no objection to approval of the requested Comprehensive Plan Amendment / Zone Map Change (CP ZC) from RH to CX subject to the following conditions:

- The site is limited to a maximum of 296 dwelling units.
- If approved through a future Central City Parking Review the site shall be limited to a maximum of 225 below grade parking spaces for use by the MAC.
- No existing or future driveways on Block 7 may be used for vehicle access to any commercial parking for the MAC.
- Prior to a future Central City Parking Review (CCPR) the MAC shall be required to submit a Parking Management Plan and Transportation Demand Management (TDM) plan to PBOT Active Transportation. The Parking Management and TDM Plan shall include:
 1. documentation of then-current and projected post-development mode shares to the site(s);
 2. mode share targets for three years, ten years and twenty years based on adopted city, regional and state policies;
 3. facilities, financial, information and education strategies likely to achieve the mode share targets;
 4. regular mode share reporting requirements;
 5. contingency strategies and enforcement mechanisms to ensure targets are met.

The TDM and Parking Management Plan shall be developed with and approved by PBOT Active Transportation prior to approval of any CCPR.

- 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 request does not include the Institutional Residential zone. Therefore this criterion is not applicable.

- D. Location.** The site must be within the City's boundary of incorporation. See Section 33.855.080.

Findings: The site is within the City of Portland. This criterion is met.

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. RECOMMENDATION

Approval of a Comprehensive Plan Map Amendment from High-Density Multi-Dwelling to Central Commercial; and

Approval of a Zoning Map Amendment from RH, High-Density Multi-Dwelling Residential zone with a Design overlay zone to CX, Central Commercial zone with a Design overlay zone;

For property legally described as: BLOCK 7 TL 9300, AMOS N KINGS; BLOCK 7 TL 9400, AMOS N KINGS; BLOCK 7 TL 1800, AMOS N KINGS; N 1/2 OF N 1/2 OF SE 1/4 BLOCK 7, AMOS N KINGS; BLOCK 7 TL 1700, AMOS N KINGS; BLOCK 7 TL 1600, AMOS N KINGS; BLOCK 7 TL 1500, AMOS N KINGS; BLOCK 7 TL 2000, AMOS N KINGS; BLOCK 7 TL 2100, AMOS N KINGS; BLOCK 7 TL 9500, AMOS N KINGS;

All subject to the following conditions:

- A. As part of any future building permit application submittal, the following conditions (B through F) must be noted on the required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 14-105474 CP ZC." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Development on the site must include a minimum of 194 residential dwelling units. Occupancy permits for other approved uses—hotel or accessory MAC parking—is prohibited prior to the issuance of occupancy permits for the required residential units.
- C. The site is limited to a maximum of 296 residential dwelling units. Up to 16 of the dwelling units may be used as short-stay/hotel suites (a Retail Use) to serve MAC guests. Uses, other than Household Living and hotel suites, that are allowed, limited or are Conditional Uses in the CX zone are prohibited on this site. Accessory parking to serve the residential units, MAC hotel suites and the MAC facility are allowed per the provisions of Title 33 and the other conditions of approval.
- D. If approved through a future Type III, Central City Parking Review (PCC 808.100), parking that is accessory to the MAC must be limited to a maximum of 225 parking spaces. The accessory parking must be constructed below street grade.
- E. Prior to approval of a future Central City Parking Review, the MAC must submit a Parking Management Plan and Transportation Demand Management Plan to the PBOT Active Transportation Section. The Parking Management Plan and Transportation Demand Management Plan must include:
 - 1. Documentation of then-current and projected post-development mode shares to the MAC facilities;
 - 2. Mode share targets for three, ten and twenty years, based on adopted City, regional and State policies;
 - 3. Facilities information, financial investments, and educational strategies that will likely achieve the mode share targets;
 - 4. Regular mode share reporting requirements;
 - 5. Contingency strategies and enforcement mechanisms to ensure that targets are met and
 - 6. The plans must be developed with PBOT Active Transportation staff and included in the CCPR application.

- F. Existing or future driveways on the subject site (Block 7) are prohibited from providing vehicle access to any parking that is accessory to the MAC. Driveways to parking and loading areas that are accessory to the residential use are allowed.



Kenneth D. Helm, Hearings Officer

July 10, 2014
Date

Application Determined Complete: March 27, 2014
Report to Hearings Officer: May 9, 2014
Recommendation Mailed: July 11, 2014

Conditions of Approval. This project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

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 the City Auditor upon receipt of the Hearings Officer's Recommendation. You will be notified of the time and date of the hearing before City Council. 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.

If you have any questions contact the Bureau of Development Services representative listed in this Recommendation (823-7700).

The decision of City Council, and any conditions of approval associated with it, is final. The decision may be appealed to the Oregon Land Use Board of Appeals (LUBA), as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that:

- an appellant before LUBA must have presented testimony (orally or in writing) as part of the local hearings process before the Hearings Officer and/or City Council; and
- a notice of intent to appeal be filed with LUBA within 21 days after City Council's decision becomes final.

Please contact LUBA at 1-503-373-1265 for further information on filing an appeal.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

Expiration of approval. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

If the Zone Change or Comprehensive Plan Map Amendment approval also contains approval of other land use decisions, other than a Conditional Use Master Plan or Impact Mitigation Plan, those approvals expire three years from the date the final decision is rendered, unless a building permit has been issued, or the approved activity has begun.

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 Submittal
 - 1. Project Description Narrative and Response to Approval Criteria
 - 2. Proposed Restrictive Covenant, Original Submittal
 - 3. Transportation Impact Analysis – Block 7 Development, Prepared by Kittelson & Assoc., Jan. 2014, Original Submittal
 - 4. Block 7 Neighborhood Meeting Log
 - 5. Stormwater Design Narrative, Prepared by MGH Planning and Engineering
 - 6. Geotechnical Response, Prepared by GeoDesign
 - 7. Request for Evidentiary Hearing and Waiver of 120-Day Clock
 - 8. Applicant's Memo Responding to Staff's Incomplete Application Letter, Feb. 21, 2014
 - 9. Applicant's Memo – Potential Applicability of Prior Master Plan, March 21, 2014
 - 10. Applicant's Memo – Calculation of FAR, March 21, 2014
 - 11. Applicant's Memo – CCPR Issues, March 21, 2014
 - 12. Revised Restrictive Covenant, Received March 21, 2014
 - 13. Memo from Julia Kuhn, Kittelson to Bob Haley, PBOT – MAC Apartment Trip Generation, Received March 21, 2014
 - 14. Revised Transportation Impact Analysis Narrative, Prepared by Kittelson & Assoc., Received March 21, 2014
 - 15. Memo from Julia Kuhn and Matt Bell, Kittelson to staff—Supplemental Parking Information, Dated April 15, 2014
 - 16. Memo from Thor Tingey and Matt Bell, Kittelson, to staff- Response to City Completeness Comments, Dated Feb. 18, 2014
 - 17. Draft GHFL Parking and Transportation Survey, April 20, 2014, submitted by Applicant on April 22, 2014
- B. Zoning Map (**attached**)
 - 1. Existing Zoning
 - 2. Proposed Zoning
- C. Plans and Drawings
 - 1. Site Plan (**attached**)
 - 2. Preliminary Exterior Architectural Drawing – 19th Ave Elevation
 - 3. Preliminary Exterior Architectural Drawing – 20th Ave Elevation
 - 4. Preliminary Exterior Architectural Drawing – Madison St. Elevation
 - 5. Preliminary Exterior Architectural Drawing – Main St. Elevation
 - 6. Preliminary Exterior Architectural Drawing – Birds-Eye View from South
 - 7. Preliminary Exterior Architectural Drawing – Birds-Eye View from Southeast intersection
 - 8. Preliminary Site Utility Plan, Original Submittal
 - 9. Revised Preliminary Site Utility Plan, Submitted Feb. 21, 2014
- D. Notification information
 - 1. Request for Response
 - 2. Posting Letter Sent to Applicant

3. Notice to be Posted
 4. Applicant's Statement Certifying Posting
 5. Mailing List
 6. Mailed Notice
- E. Agency Responses
1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Police Bureau
 6. Site Development Review Section of Bureau of Development Services
 7. Life Safety Plan Review Section of Bureau of Development Services
 8. Bureau of Parks, Forestry Division
- F. Letters
1. Tracey Toy w/ signed petition, The Legends Condominium, Jan. 28, 2013, in opposition
 2. Dale Cardin, e-mail with attachments, Feb. 21, 2014, in opposition
 3. Dale Cardin, e-mail, Feb. 27, 2014, in opposition
 4. Dale Cardin, e-mail with attachments, March 26, 2014, in opposition
 5. Daniel Salomon, e-mail with attachments, April 1, 2014, in opposition
 6. Bob Wilson, e-mail, April 13, 2014, in opposition
 7. Marilyn Weber, letter, April 17, 2014, in opposition
 8. Leslie Cagle, e-mail, April 17, 2014, in opposition
 9. Bill Flowers, e-mail, April 17, 2014, in opposition
 10. Karl Reer, letter, April 18, 2014, in opposition
 11. Cliff Weber, letter, April 18, 2014, in opposition
 12. Corinne Valois, e-mail, April 20, 2014, in opposition
 13. Stacey Wayne Melnick, e-mail, April 20, 2014, in opposition
 14. Tina Monaghan, e-mail, April 23, 2014, in opposition
 15. Jerald M. Powell, letter, April 24, 2014, in opposition
 16. Robert Koblegarde, e-mail, April 25, 2014, in opposition
 17. Keiko Okamoto, e-mail, in opposition
 18. Scott MacPherson, e-mail, April 27, 2014, in opposition
 19. Jeff Malmquist, e-mail, April 27, 2014, in opposition
 20. Jeane Noh, e-mail, April 28, 2014, in opposition
 21. Craig Lewis, e-mail, April 28, 2014, in opposition
 22. Gerald Gast, e-mail, April 28, 2014, in opposition
 23. Douglas Richardson, e-mail, April 28, 2014, in opposition
 24. Stephen Ko, e-mail, April 28, 2014, in opposition
 25. Adrienne Hill, e-mail, April 28, 2014, in support
 26. Molly Salazar, e-mail, April 28, 2014, in opposition
 27. Katharine Doel, e-mail, April 28, 2014, in opposition
 28. Joanna Malaczynski, e-mail, April 29, 2014, in opposition
 29. Seth Leavens, e-mail, April 29, 2014, in opposition
 30. Denise Wolf, fax, April 30, 2014, in opposition

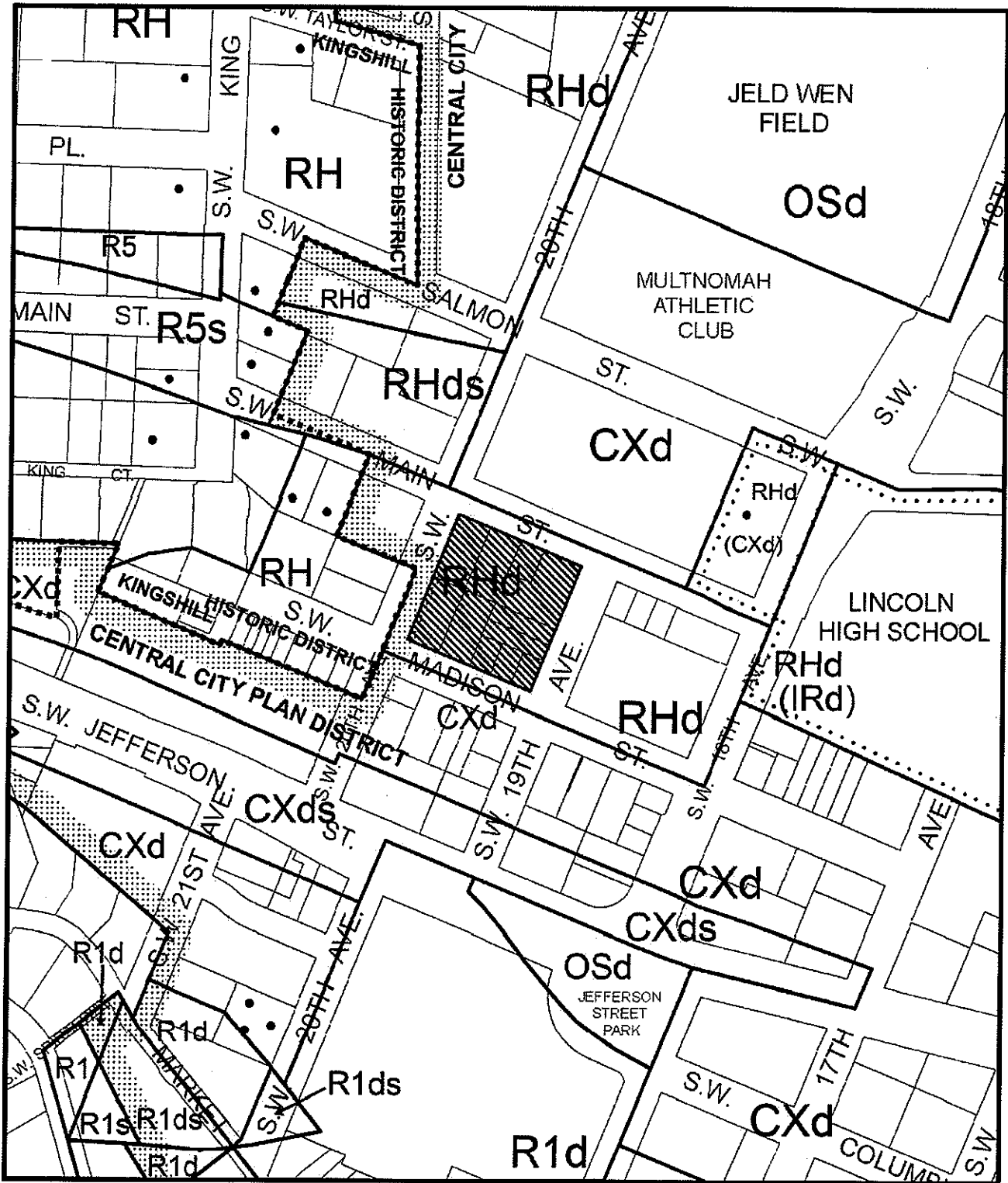
31. Elizabeth L. Perris, fax, April 30, 2014, in opposition
 32. Linda Cameron, chair, GHFL Block 7 Planning Committee, Executive Summary & Final Report, April 24, 2014, in opposition
 33. Leslie Cagle, e-mail follow up, April 30, 2014, in opposition
 34. Roger Leachman, e-mail, April 30, 2014, in opposition
 35. Bill Flowers, e-mail, April 30, 2014, in opposition
 36. Tracy J. Prince, e-mail, April 30, 2014, in opposition
 37. Ed Levine, e-mail, May 1, 2014, in opposition
 38. Kalman C. Toth, letter, May 1, 2014, in opposition
 39. Kalman C. Toth, letter, May 1, 2014, Final Report of the GHFL Block 7 Planning Committee, in opposition
 40. Susan Younie, letter, May 1, 2014, in opposition
 41. Thomas & Elizabeth Cooksey, letter, May 1, 2014, in opposition
 42. Thomas Milne, fax, May 1, 2014, in opposition
 43. Kathleen C. Milne, letter, May 1, 2014, in opposition
 44. Kathleen C. Milne, letter, May 1, 2014, in opposition
 45. Douglas Richardson, e-mail, May 1, 2014, in opposition
 46. Dale Cardin, e-mail with Goal 6 summary, May 1, 2014, in opposition
 47. Dale Cardin, e-mail with GHFL Block 7 Committee Final Report 10-Minute Presentation, in opposition
 48. Marilyn Weber, e-mail, May 1, 2014, in opposition
 49. Marjorie & Norman Sande, e-mail, May 1, 2014, in opposition
 50. Constance E. Kirk, letter with attachments, May 1, 2014, in opposition
 51. Marilyn Weber, e-mail, May 1, 2014, in opposition
 52. Tom Walsh, letter, May 1, 2014, in opposition
 53. Dale Cardin, letter, Rebuttal of Kittleson April 15th Memo, May 5, 2014, in opposition
- G. Other
1. Original LUR Application
 2. Pre-Application Conference Summary Report
 3. Incomplete Application Letter from Staff to Applicant
 4. Staff Policy Analysis Summary Table (attached)
 5. Notice Sent from Staff to Oregon DLCD
- H. Received in the Hearings Office
1. Notice of Hearing -- Frugoli, Sheila
 2. Letter with attachment -- Milne, Casey
 - a. 5/1/14 Memo -- Milne, Casey
 3. 5/1/14 Memo with attachment -- Milne, Casey
 - a. 5/1/14 Letter -- Milne, Casey
 4. Staff Report -- Frugoli, Sheila
 5. Binder -- Bragar, Jennifer M.
 6. 5/18/14 Letter -- Gast, Warren Gerald
 7. Response to BDS Report -- Toth, Kalman
 8. Testimony -- Black, Harvey
 9. Address sheet -- Toth, Kalman

10. Applicant's Presentation -- Janik, Steve
 - a. PowerPoint presentation printout -- Janik, Steve
 - b. 5/21/14 Memo -- Janik, Steve
 - c. 5/19/14 Letter, Rick Williams to Sam Rodriguez -- Janik, Steve
 - d. 5/20/14 Letter, Scott V. Mills to Mill Creek Residential Trust -- Janik, Steve
 - e. 5/19/14 E-mail -- Janik, Steve
 - f. Affidavit of Damien R. Hall -- Janik, Steve
 - g. 5/20/14 Letter -- Janik, Steve
11. 5/21/14 Letter -- Reer, Karl
 - a. Climate Action Plan 2009 -- Reer, Karl
 - b. Petition -- Reer, Karl
 - c. E-mail -- Reer, Karl
12. PowerPoint presentation printout -- Frugoli, Sheila
13. Testimony In Favor Of Sign-Up Sheets -- Hearings Office
14. Testimony In Opposition To Sign-Up Sheets -- Hearings Office
15. Record Closing Information Sheet -- Hearings Office
16. Address Info. -- Milne, Casey
17. Address Info. -- Richardson, Doug
18. Written testimony -- Salomon, Stephen N.
19. Written testimony -- Salomon, Sherry
20. Address Info. -- Hill, Adrienne
21. Address Info. -- Lewis, Robert
22. Written testimony -- Salomon, Daniel
 - a. Ecological Survey -- Salomon, Daniel
 - b. Address Info. -- Salomon, Daniel
23. Address Info. -- Gundlach, Helen
24. Address Info. -- Arkes, Bob
25. Written testimony -- Kirk, Constance E.
26. Address Info. -- Cardin, Dale
27. Address Info. -- West, Suzanne
28. Address Info. -- Ofiara, Carolyn
29. Address Info. -- Stromme, Reba
30. Address Info. -- Velky, Mark
31. Address Info. -- Prince, Tracy J.
32. Address Info. -- Weber, Marilyn
33. Address info. with attachment -- Clark, Nicolas
 - a. Chapman ES 2011 Attendance Area Map -- Clark, Nicolas
34. 5/22/14 Letter -- Powell, Jerald M.
35. 5/21/14 Letter -- Reer, Karl
36. 5/22/14 Letter from Kalman C. Toth with attachment -- Frugoli, Sheila
 - a. Goose Hollow Foothills League 4/29 Meeting Data Summary -- Frugoli, Sheila
37. 5/23/14 Letter from Connie Kirk with attachments -- Frugoli, Sheila
 - a. Photos -- Frugoli, Sheila
 - b. Integrity: The Missing Link in Mill Creek's Proposed Milton Mews

Development -- Frugoli, Sheila

38. *Exhibit Number Not Used* -- Hearings Office
39. *Exhibit Number Not Used* -- Hearings Office
40. 5/29/14 Memo -- Frugoli, Sheila
41. 5/29/14 Letter with attachments -- Milne, Tom
 - a. 10/8/13 Legends' Informal Traffic Study -- MAC -- Milne, Tom
 - b. MAC Parking Documentation of Sufficient Capacity -- Milne, Tom
 - c. GHFL Board Meeting 4/29/14 -- Milne, Tom
 - d. 5/21/14 Written testimony -- Milne, Tom
42. 5/30/14 Letter with attachments -- Janik, Steve
 - a. 5/30/14 Memo, Julia Kuhn to Sam Rodriguez/Norm Rich/Janik & Damien Hall -- Janik, Steve
 - b. 5/29/14 Letter, Rick Williams to Rodriguez -- Janik, Steve
 - c. 5/30/14 Letter from Darcy Henderson -- Janik, Steve
 - d. MAC Rideshare Report -- Janik, Steve
 - e. Survey of High Density Multi-Family Housing in Goose Hollow -- Janik, Steve
 - f. 5/30/14 Memo -- Janik, Steve
43. 5/30/14 Letter -- Bragar, Jennifer M.
 - a. Working Paper 11118 -- Bragar, Jennifer M.
 - b. Truth in Transportation Planning -- Bragar, Jennifer M.
 - c. UC Berkeley Parking and Transportation Demand Management Master Plan -- Bragar, Jennifer M.
 - d. Transcript -- Bragar, Jennifer M.
44. 5/30/14 Letter -- Wyman, Ty
45. 5/30/14 Letter -- Wyman, Ty
46. 5/23/14 Letter -- Toth, Kalman
47. 5/30/14 Misdirected Fax from Ty Wyman -- Frugoli, Sheila
48. 6/6/14 Letter -- Kirk, Constance E.
49. 6/6/14 Letter -- Richardson, Doug
50. 6/6/14 Letter -- Malmquist, Jeff
51. 6/5/14 Letter -- Doel, Katharine
52. Letter -- Noh, Jeane H.
53. 6/6/14 Letter -- Janik, Steve
 - a. Memo From Julia Kuhn -- Janik, Steve
 - b. 6/4/14 Letter from Rick Williams -- Janik, Steve
54. 6/6/14 Letter with attachments -- Bragar, Jennifer M.
 - a. 3-hole punch documents -- Bragar, Jennifer M.
 - b. Summary of Petitions Submitted at the 5/21/14 Hearing -- Bragar, Jennifer M.
 - c. Summary of Petitions Submitted Since 5/20/14 Hearing -- Bragar, Jennifer M.
55. 6/13/14 letter with attachments -- Janik, Steve
 - a. Applicant's Final Argument -- Janik, Steve
 - b. 6/11/14 Memo, Julia Kuhn to Sam Rodriguez, Norm Rich, Janik & Damien Hall -- Janik, Steve
 - c. 6/5/14 Memo, Kuhn to Rodriguez, Rich, Janik & Hall -- Janik, Steve

- d. 6/9/14 Letter, Rick Williams to Rodriguez -- Janik, Steve
- 56. 6/28/14 Letter -- Dennis, John -- *Submitted After Record Closed*
- 57. 7/2/14 Letter -- Bragar, Jennifer M. -- *Submitted After Record Closed*



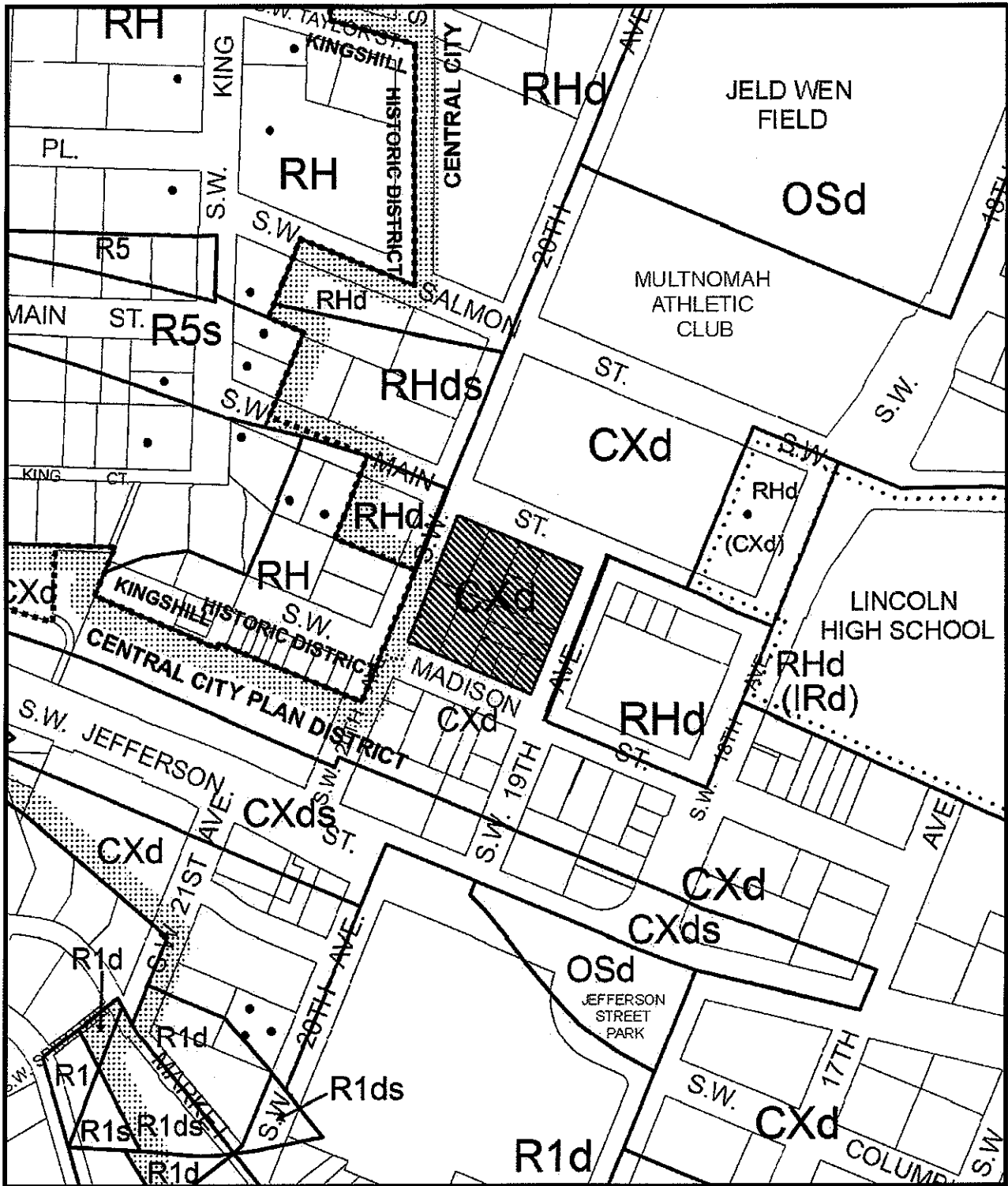
ZONING EXISTING

-  Site
-  Historic Landmark



This site lies within the:
CENTRAL CITY PLAN DISTRICT
GOOSE HOLLOW SUB DISTRICT

File No. LU 14-105474 CP,ZC
 1/4 Section 3027.3127
 Scale 1 inch = 200 feet
 State Id 1S1E04BA 2000
 Exhibit B.1 (Jan 17,2014)



ZONING PROPOSED



Site

Historic Landmark

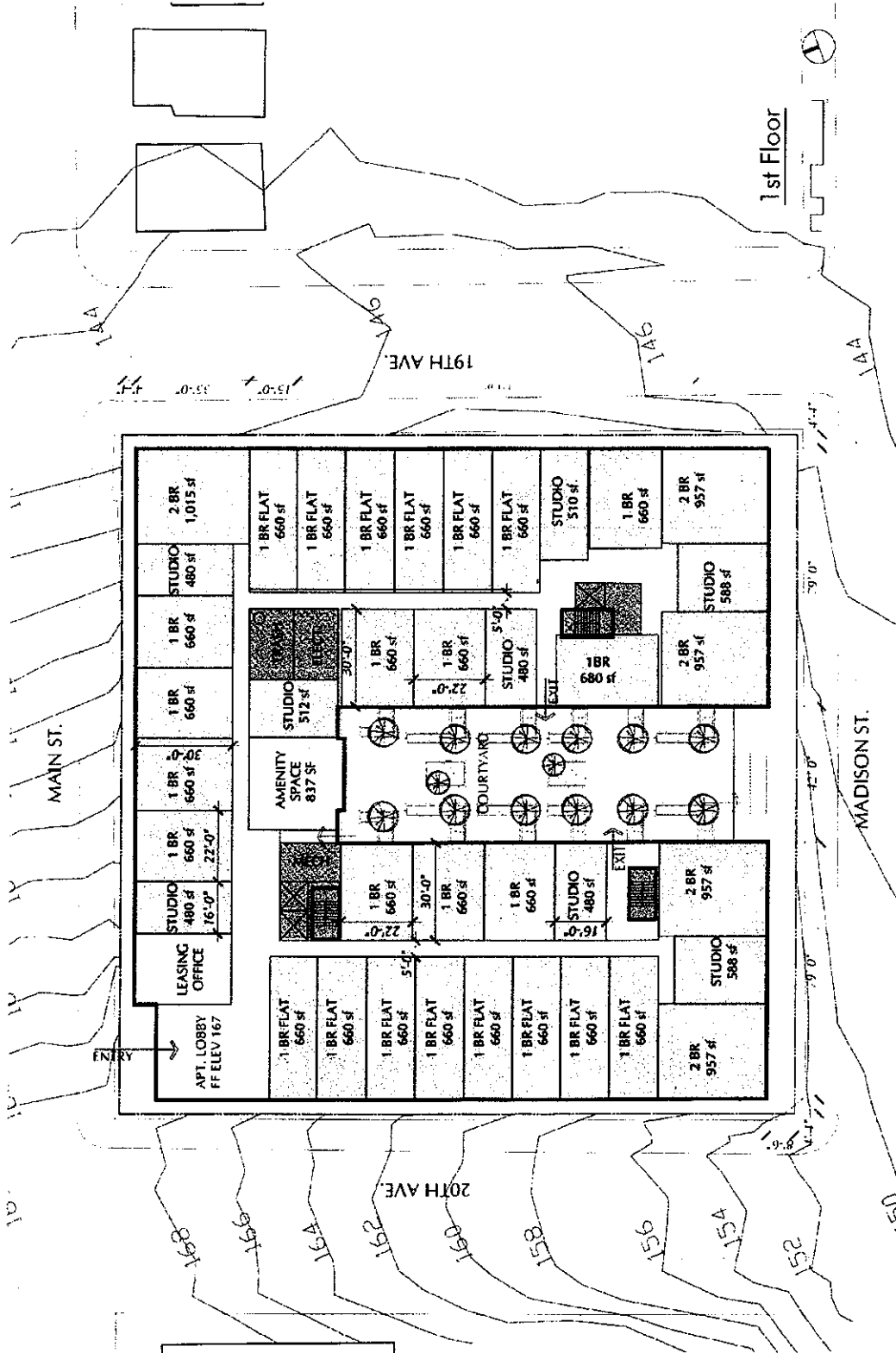


NORTH

This site lies within the:
CENTRAL CITY PLAN DISTRICT
GOOSE HOLLOW SUB DISTRICT

File No. LU 14-105474 CP,ZC
 1/4 Section 3027.3127
 Scale 1 inch = 200 feet
 State Id 1S1E04BA 2000
 Exhibit B.2 (Jan 17,2014)

MAC CREEK APARTMENTS / PORTLAND, OR



MILL CREEK RESIDENTIAL TRUST
 ANKROM MOISAN ARCHITECTS, INC.



Ankrom Moisan

LU 14-105474 CP ZC Staff Recommendation - Policy Analysis Summary
Exhibit G.4

Relevant Goals and Policies	Better Supports	Equally Supports	With Conditions, Equally Supports	Does Not Support
Goal 1 – Metro Titles		*		
Title 1		*		
Title 3		*		
Title 6		*		
Title 7		*		
Title 8		*		
Title 12		*		
Title 13		*		
Goal 2 – Urban Development		*		
Policy 2.1		*		
Policy 2.2		*		
Policy 2.6		*		
Policy 2.9				*
Policy 2.11				*
Policy 2.12				*
Policy 2.15		*		
Policy 2.17			*	
Policy 2.18		*		
Policy 2.19	*			
Policy 2.20	*			
Policy 2.22	*			
Policy 2.25		*		
Central City Plan			*	
Policy 3		*		
Policy 4			*	
Goose Hollow				*
Goal 3 - Neighborhoods				*
Policy 3.5		*		
Goal 4 - Housing		*		
Policy 4.1		*		
Policy 4.2		*		
Policy 4.3		*		
Policy 4.4		*		
Policy 4.6		*		
Policy 4.7		*		
Policy 4.10		*		
Policy 4.11		*		
Policy 4.14		*		
		*		

LU 14-105474 CP ZC Staff Recommendation - Policy Analysis Summary
Exhibit G.4

Relevant Goals and Policies	Better Supports	Equally Supports	With Conditions, Equally Supports	Does Not Support
Goal 5 – Economic Development		*		
Policy 5.1	*			
Policy 5.2	*			
Policy 5.4		*		
Goal 6 - Transportation		*		
Policy 6.1		*		
Policy 6.2		*		
Policy 6.3		*		
Policy 6.4		*		
Policy 6.5		*		
Policy 6.6		*		
Policy 6.7		*		
Policy 6.8		*		
Policy 6.9		*		
Policy 6.10		*		
Policy 6.11		*		
Policy 6.12		*		
Policy 6.13		*		
Policy 6.14		*		
Policy 6.15		*		
Policy 6.16		*		
Policy 6.17		*		
Policy 6.18		*		
Policy 6.19		*		
Policy 6.20		*		
Policy 6.21		*		
Policy 6.22		*		
Policy 6.23		*		
Policy 6.24		*		
Policy 6.25			*	
Policy 6.26		*		
Policy 6.27			*	
Policy 6.28		*		
Policy 6.29		*		
Policy 6.30		*		
Policy 6.31		*		
Policy 6.32		*		
Policy 6.33		*		
Policy 6.34		*		
Policy 6.42		*		

LU 14-105474 CP ZC Staff Recommendation - Policy Analysis Summary
 Exhibit G.4

Relevant Goals and Policies	Better Supports	Equally Supports	With Conditions, Equally Supports	Does Not Support
Central City Transportation Management Plan			*	
Policy 1		*		
Policy 2		*		
Policy 4			*	
Policy 4.2			*	
Policy 4.3			*	
Policy 4.4			*	
Policy 4.5			*	
Policy 4.5.4			*	
Policy 4.8			*	
Policy 5		*		
Policy 6			*	
Policy 7		*		
Policy 8		*		
Goal 8 - Environment		*		
Policy 8.2		*		
Policy 8.3		*		
Policy 8.4		*		
Policy 8.9		*		
Policy 8.10		*		
Policy 8.13		*		
Goal 9- Citizen Involvement		*		
Policy 9.1		*		
Policy 9.3		*		
Goal 10 - Plan Review and Administration		*		
Policy 10.5		*		
Policy 10.7		*		
Policy 10.8		*		
Goal 11A - Public Facilities		*		
Policy 11.2		*		
Policy 11.4		*		
Goal 12 - Urban Design		*		
Policy 12.1		*		
Policy 12.2		*		
Policy 12.4		*		

LU 14-105474 CP ZC Staff Recommendation - Policy Analysis Summary
Exhibit G.4

Relevant Goals and Policies	Better Supports	Equally Supports	With Conditions, Equally Supports	Does Not Support
Policy 12.6		*		
Policy 12.7		*		