



City of Portland
Bureau of Development Services
Land Use Services Division

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**NOTICE OF FINAL
FINDINGS, CONCLUSIONS AND DECISION
OF THE CITY OF PORTLAND REVIEW BODY
ON AN
APPEALED ADMINISTRATIVE DECISION
(Type II Process)**

**CASE FILE: LU 14-241892 AD
LOCATION: 6400 SW Canyon Ct**

The administrative decision for this case, published on April 29, 2015, was appealed to the Adjustment Committee by the David Malcom of the Sylvan Height Neighborhood Association and the Roundhill Service Association represented by T. Beau Ellis.

Public hearings were held on June 16, 2015 and July 21, 2015. The original administrative analysis, findings and conclusions were adopted, with revisions, by the Adjustment Committee. This document is only a summary of the decision.

The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number.

Applicant: Thomas Clarey / Sylvan Office Park LLC Phone: 503-222-0031
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Architect: Scott Reiter / Reiter Design Group Architects, Inc
7965 SW Cirrus Dr / Beaverton, OR 97008

Attorney: Tim Ramis / Jordan Ramis
Two Centerpoint Dr, 6th Floor / Lake Oswego, OR 97035

Site Address: 6400 SW CANYON CT

Legal Description: TL 1600 3.46 ACRES, SECTION 06 1S 1E; TL 1601 0.16 ACRES,
SECTION 06 1S 1E

Tax Account No.: R991062340, R991064090

State ID No.: 1S1E06CB 01600, 1S1E06CB 01601

Quarter Section: 3223

Neighborhood: Sylvan-Highlands, contact Dave Malcolm at 503-805-9587

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212

Plan District: Northwest Hills - Skyline

Zoning: CN2 (Neighborhood Commercial 2)

Case Type: AD (Adjustment Review)

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicant proposes to redevelop this site with four apartment buildings containing a total of 244 dwelling units. Two buildings are proposed to be four stories over two levels of below-grade and partially below-grade structured parking and two buildings are proposed to be three stories over one level of partially below-grade parking. Three surface parking lots are also proposed for the site. In total, 59 surface parking spaces and 228 structured parking spaces will be provided.

The site is located in a gully. It slopes steeply upwards toward the west and portions are sunken below the lots to the north, east, west and the street to the south. The two four-story buildings over structured parking are proposed to be located in the lower eastern areas of the site. The two three-story buildings over structured parking are proposed to be located in the higher western areas of the site. While the tops of each building will be comparable to the tops of buildings on adjacent lots to the east and west, the proposed height of the buildings will exceed the 30-foot maximum height allowance of the CN2 zone. The proposed height of Building 1 located on the east side of the site is 45 feet. Building 2 is proposed to measure 49.5 feet; however, this height is measured from the off-set entrance to the structured parking located below an open space plaza. The perceived height of the building is 42.5 feet. Building 3 is proposed to measure 33 feet in height and Building 4 is also proposed to measure 33 feet in height. The applicant requests one Adjustment to increase the allowed heights of the proposed apartment buildings.

Note: Due to the location of a 10-foot sanitary sewer easement and questions about whether moving the line and easement as planned are feasible, the applicant submitted two very similar site plans. One that shows the sewer line and easement moved and one that relocates Building 2 outside of the easement. Due to the similarities of the site plans, they are addressed interchangeably in this decision.

Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A through F of Section 33.805.040, Adjustment Approval Criteria, have been met.

Appeal: The proposal was approved with several conditions of approval. The appellants filed an appeal of the decision, saying that:

- The Neighborhood Association disagreed with the staff reasoning and decisions.
- The decision does not address scale, visual dominance of adjacent residential properties, and preservation of light, air and potential for privacy.
- The Portland Zoning Code already accounts for topography through the Base Point 2 height measurement.
- The proposal conflicts with the adjacent street classification.
- The approval criteria related to desired character and mitigation are not met.

Procedural History: At the June 16, 2015 hearing, the Bureau of Development Services (BDS) staff planner, Matt Wickstrom, presented the proposal and administrative decision, showing pictures of the site and surrounding area that supported the decision (Exhibit H3). The appellants gave testimony to support their arguments that the administrative decision should be denied. Neighbors of the site also provided testimony that the administrative decision should be denied (Exhibit F1 – F24). At the conclusion of the hearing, the record was held open for additional evidence to be submitted and a follow-up hearing scheduled.

At the July 21, 2015 hearing, Matt Wickstrom presented a summary of the additional information submitted by the applicant and lawyer representing the Roundhill Service Association. Additional information submitted by the applicant included proposed conditions of approval related to tree

preservation and landscaping. At the conclusion of the hearing, the Adjustment Committee deliberated and voted to tentatively deny the appeal, uphold the staff's administrative decision and approve the height adjustment with conditions. The Committee continued this matter to August 18th for the adoption of findings and a final decision on that date.

ANALYSIS

Site and Vicinity: The site is approximately 3.6 acres in size and fronts on SW Canyon Court. It is currently developed with two three-story office buildings and surface parking. Topography on the site creates an upper area and a lower area. The highest area of the site towards the west has an elevation of 782 feet above sea level (ASL) whereas the lowest area towards the east has an elevation of 708 feet ASL. The overall site is in a gully as its elevation is lower than the adjacent sites to the north, south, east and west. The lowest portion of the site is at an elevation approximately 14 feet below SW Canyon Court to the south. The site has a large number of mature trees in the northeast corner, along the property lines and through the middle of the site.

SW Canyon Court has sidewalks on both sides. There is also a regional pedestrian and bicycle path across the street from the site. This path connects to the Sunset Transit Center to the west and the Washington Park MAX station to the east. An unpermitted pedestrian pathway connects the site to an apartment complex to the northwest. The pathway will be removed with the development of the site. A sanitary sewer line runs through the lower portion of the site and a stormwater outfall is located in the northern area of the lower portion of the site.

The surrounding vicinity is developed with single-dwelling homes, an office building, apartments, attached houses and low density condominiums. Washington County is located immediately west of the site.

Lots to the north of the site are larger and developed with single-dwelling homes. Trees separate those lots from the site. Lots to the west of the site are developed with low density two to three-story condominiums, attached houses and single-dwelling homes. The lot to the northwest of the site is developed with two to five-story apartment buildings with structured and surface parking. Some buildings are built into the existing hillside. This apartment complex is owned and managed by the applicant. Its redevelopment and expansion was designed by the architect of the apartment complex proposed as part of this land use review. Lots to the north of the site are heavily forested and developed with single-dwelling homes. The lot to the east is zoned for multi-dwelling residential development but is developed with a two-story office building. A small lot to the south of the site is owned by TriMet and developed with a large exhaust pipe from the Westside MAX tunnel which runs under the site. An approximately 25 to 35-foot tall retaining wall controls the slope between the higher elevation properties to the east of the site and SW Canyon Court. SW Canyon Court, a regional pedestrian and bicycle pathway, and a sound wall separate the site from Highway 26 to the south. The pathway is separated from auto traffic and connects to Sunset Transit Center and Washington Park MAX stations. East Sylvan Middle School is located approximately 1,000 feet from the site at the corner of SW Canyon Court and SW Montgomery Street.

Zoning: The site is zoned CN2 (Neighborhood Commercial 2). The CN2 zone is intended for small commercial sites and areas in or near less dense or developing residential neighborhoods. The emphasis of the zone is on uses which will provide services for the nearby residential areas, and on other uses which are small scale and have little impact. Development is expected to be predominantly auto accommodating, except where the site is adjacent to a transit street. Residential development is allowed by right in the CN2 zone. Although the properties to the north are zoned with an environmental protection designation, this site has no environmental zoning. The site is also located in the Northwest Hills Plan District/Skyline subdistrict. No regulations from the plan district or subdistrict apply to this proposal or project.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **February 20, 2015**. The following Bureaus have responded:

The Bureau of Environmental Services (BES) responded with information on sanitary service and stormwater management. The reviewer indicates that a 10-foot wide sewer easement is located on the site. A drainageway discharges to a storm pipe system approximately 85 feet south of the northern property boundary. The reviewer also indicates that issues related to stormwater runoff and the location, ownership and easement of the stormwater system must be determined prior to approval of development at the site (Exhibit E-1). BES provided an addendum to their response clarifying that the Bureau has no specific approval criteria related to Adjustments and therefore comments are advisory. BES points out that the Bureau is not approving plans through this land use review and if changes to the site plan or development are necessary to meet BES requirements at time of building permit, a subsequent land use review could be triggered (Exhibit E-7).

The Water Bureau responded with information about water service (Exhibit E-2).

The Fire Bureau responded that all applicable Fire Code requirements will apply at time of permit review and development (Exhibit E-3).

The Life Safety section of the Bureau of Development Services (BDS) responded with information on building code regulations (Exhibit E-4).

The Site Development section of BDS responded with information on the potential landslide hazard area and erosion control. The response notes that additional geotechnical information may be required at time of building permit review (Exhibit E-5).

The Portland Bureau of Transportation responded to the proposal with no concerns (Exhibit E-6).

Neighborhood Review: Prior to the original decision, staff received 24 written responses from notified property owners and the neighborhood association in response to the proposal. Comments and staff responses are summarized below (Exhibits F1-F24).

Neighbor and Neighborhood Association comments:

Minimal public transit

Many respondents state that there is no public transit near the property.

Staff response: Availability of public transit is not a factor in this land use review because the applicant is proposing more onsite parking than is required by the Portland Zoning Code. The applicant responded “the subject site is well served by public transit. There is a dedicated public pedestrian/bike pathway that leads directly to the No. 58 TriMet express bus stop. The bus stop is located within a 3-5 minute walk (0.3 miles) of the subject site. The Westbound No. 58 bus comes every 18 minutes and is an 11 minute ride to the Beaverton Transit Center. This connects to numerous buses and the MAX light rail. Within a 10 minute walk of the subject site is the Eastbound No. 58 bus that leads directly to downtown Portland and is a 12 minute ride to the transit mall downtown. The adjacent Public Pedestrian/Bike Pathway provides bicycle access to the Sunset Transit Center 2.7 miles to the West and the Washington Park MAX station 1.5 miles to the East”. The applicant also provided maps and bus schedule information to document these statements.

Neighborhood character conflicts

Many neighbors stated that all other nearby development is single-dwelling residences and the project won’t “fit in”. These letters also stated the site only has access from SW 61st Drive. The

Sylvan-Highlands Neighborhood Association (SHNA) provided similar comments that this area of the Sylvan-Highlands neighborhood is almost entirely developed with single-dwelling residential development.

Staff response: The site fronts on and is accessed from SW Canyon Court. Development in the vicinity is a variety of single and multi-dwelling development as well as an office use next door. Additionally, the CN2 zone mapped on the site allows multi-dwelling development as does the adjacent R1 (Residential 1,000) zone.

Increased neighborhood traffic

Many respondents describe SW 61st Drive and state the project would increase cut through traffic. Letters also say traffic from the project will aggravate bottlenecks at nearby intersections.

Staff response: The Adjustment Review approval criteria includes a criterion about whether the proposal is consistent with the classification of the adjacent street, in this case, SW Canyon Court, not SW 61st Drive because the site doesn't front on SW 61st Drive. PBOT responded to the Notice of Proposal with no concerns, indicating that the proposal is consistent with the classification of the adjacent street. The applicant also responded "the subject site is located on SW Canyon Court, which is a divided two-lane local street with public sidewalks on one side for portions and two sides for portions. Preliminary traffic analysis has been completed for the proposed development, including the affected adjacent roadways and intersections. The preliminary analysis demonstrated ample capacity on the existing street system".

Decreased neighborhood safety and livability

Many neighbors describe broader issues concerning some nearby streets lacking sidewalks and safety implications of drivers speeding. One letter suggested that police and fire access could be at risk.

Staff response: The requested Adjustment to height doesn't have any relation to whether nearby streets have sidewalks and drivers speeding. SW Canyon Court has sidewalks in both directions. Multi-dwelling residential development is allowed by right on this site. The applicant replied "the connection to the dedicated pedestrian/bike pathway is directly adjacent to the subject site and leads directly to transit. This pathway is separate from the adjacent roadways and provides a very safe pedestrian connection to public transit. There is a public sidewalk on one side (subject site side) of SW Canyon Court (that leads) all the way to the intersection (with) SW Montgomery".

The police and fire bureaus received the Notice of Proposal. Neither bureau responded with concerns.

Zone change

Many respondents referred to the proposal as a zone change.

Staff response: The Adjustment request is to increase the maximum allowed height on the site, not to change the zoning. The site is zoned CN2 and will remain CN2 until the update to the Comprehensive plan converts the zoning to a corresponding mixed use commercial zone as is the current proposal. The increase in height does not allow a higher density of development (in terms of the number of residential units) that would be allowed outright in the CN2 zone.

Adequate parking

Respondents stated that the project would not have adequate parking and compared it to the multi-dwelling development to the northwest of the site.

Staff response: The proposal exceeds Portland Zoning Code minimum parking requirements for multi-dwelling development. A total of 287 parking spaces are provided. The Portland Zoning Code requires 244 parking spaces or 1 per dwelling unit. It is also important to note that the apartment

complex to the northwest has larger units whereas the proposed development on SW Canyon Court is mostly made up of studios and one-bedroom units.

Comprehensive Plan conflicts

SHNA stated that the project (with or without the requested Adjustment) differs from a goal of the draft update to the Comprehensive Plan which is to encourage development in centers and corridors.

Staff response: The update to the Comprehensive Plan has not been adopted. It may include a goal to encourage development in centers and corridors, but this won't restrict development elsewhere. The zoning of the site is proposed to remain commercial with the update of the Comprehensive Plan and multi-dwelling development is proposed to continue to be allowed in commercial zones.

SHNA conditions of approval

The SHNA voted to oppose the requested Adjustment but suggested three conditions of approval if the Adjustment is approved. They are:

- Conduct a traffic study;
- Add 2 speed bumps along SW Canyon Court; and
- Negotiate and execute a good neighbor agreement.

Staff response: The applicant conducted a preliminary traffic study; however, a traffic study is not a requirement of the Adjustment Review and therefore is not included in the case file or addressed by the approval criteria. PBOT reviewed the proposal and responded with no concerns; therefore traffic mitigation measures such as speed bumps are not required. The applicant could voluntarily install speed bumps but this cannot be conditioned through the Adjustment Review. Likewise, the applicant could voluntarily execute a Good Neighbor Agreement, but because multi-dwelling development at the density proposed is allowed by right, a Good Neighbor Agreement cannot be not conditioned as part of this review.

School safety

Many neighbors raised concerns about traffic congestion and safety at the East Sylvan School. Many comments were in regards to buses and cars stopping in the roadways which slows or stops traffic.

Staff response: The proposed Adjustment to height has no bearing on the operation of school buses or school drop-off/pick-up. The applicant replied "the management of the school buses and parent pick-up and drop-off needs to be addressed by the school and is not affected or caused by the proposed development. Additionally, we have documented the school district is closing the East Sylvan School and consolidating it with West Sylvan School" (Exhibit A-3).

Wildlife and environmental concerns

Several respondents question the impact of the project on wildlife and environmental resources. Other letters requested an environmental impact study.

Staff response: The applicant's proposal retains a large number of mature trees in the northeast corner of the site where it is adjacent to the identified environmental resources on the lots to the north. The site however does not contain environmental zoning and therefore any regulations concerning environmental resources do not apply to this site. Generally development is proposed in areas of the site that are already disturbed. The applicant replied "the proposed alternate design and height variance provides a less dense development leaving more open space, preserving more existing trees and the existing natural environment". No environmental impact study or Environmental Review is required for the project because it is not located in an environmental zone.

Washington County review

Neighbors suggested that Washington County should review the proposal in conjunction with the City of Portland.

Staff response: The property is located in the City of Portland. Washington County does not have jurisdiction of this site. County officials received the Notice of Proposal and could provide comments in the same manner as neighbors, but no comments were received from the County.

Oregon Department of Transportation review

Respondents suggested that the Oregon Department of Transportation (ODOT) should review the proposal due to its proximity to Highway 26.

Staff response: ODOT received the Notice of Proposal and did not provide comments.

Snow and ice removal

Many respondents stated that they do not have city services for snow and ice removal.

Staff response: The potential for snow and ice removal on the roadway is not part of the approval criteria for the Adjustment Review; however, the site is located in Portland and would be subject to City services. PBOT has expressed plans to relocate some deicing equipment to the new auxiliary emergency center to be located on SW Multnomah Boulevard so this equipment is located on the west side and the east side.

Pedestrian pathway

One letter provided many photos of an unpermitted pedestrian pathway that connects the apartment complex to the northwest to SW Canyon Court via a route along the western edge of the site.

Staff response: The pedestrian pathway is proposed to be removed with the new development. A condition of approval in this land use review, requires its removal.

Lawyer for condominium association comments:

Comments from the lawyer, T. Beau Ellis, representing the condominium association (Roundhill Service Association 2) are summarized with staff responses below. Many of his comments refer to the applicant's narrative addressing the approval criteria submitted with the Adjustment Review request. His letter attached many letters from the condominium residents. These letters were addressed above.

Intensity

Mr. Ellis states that the intensity of the proposal is consistent with the CX (Central Commercial), the commercial zone which provides the most development potential of all commercial zones.

Staff response: This comment is addressed as part of the findings below.

High retaining walls along SW Canyon Court

Mr. Ellis states that the applicant described the vicinity as dominated by the 25-foot tall retaining walls along SW Canyon Court and the vicinity is actually dominated by established dwellings and a small office building.

Staff response: Staff visited the site and toured the vicinity. The Site and Vicinity section above describes observations.

Adjacent development

Mr. Ellis states that the applicant's mention of the development potential on adjacent lots is a "red herring" because it speaks to hypothetical development.

Staff response: Consideration of adjacent zoning, uses and development potential is a factor when evaluating Adjustment requests. Redevelopment of the condominium project to the west of the site may not be probable any time soon. Redevelopment of the site to the east with the non-conforming office building in the R1 (Residential 1,000) zone could be possible, especially considering that site has the potential to be developed with 15 or more dwelling units. These 15 dwelling units would likely have a value significantly higher than the \$475,000 value of the office building, as valued by Multnomah County. And therefore the site to the east has near-term redevelopment potential. This issue is addressed as part of the findings below.

Criterion A

Mr. Ellis states that the applicant's mention that the design of the project will "fit into the hillside" is mitigation and should not be addressed as part of Criterion A.

Staff response: Mitigation is addressed as part of Criterion E; however this does not mean that designing the buildings to fit into the hillside does not address elements of Criterion A. Both instances are discussed below.

Scale

Mr. Ellis states that the four buildings have an unparalleled scale to those in the area and they will visually dominate the areas, not only due to height but also due to scale. He also states that the buildings will diminish light and air from the east and west for condominium association members. He says the buildings will also diminish privacy.

Staff response: These comments are addressed as part of the findings below.

Street capacity

Mr. Ellis states that the additional height will impact the classification of the adjacent street because additional dwelling units will naturally result from the additional height requested.

Staff response: The argument that the Adjustment to height allows more dwelling units on the site than could be built otherwise has merit; however, in this situation, the cumulative number of units resulting from the Adjustment results in a comparable or less than what would be allowed by right if the applicant were building to the maximum allowed 30-foot height limit and the maximum allowed 65% building coverage. This issue is also addressed as part of the findings for Criterion A and B below.

Desired character of the area

Mr. Ellis states that the proposal is not consistent with the desired character of the area. He also states the proposal is inconsistent with the Comprehensive Plan.

Staff response: The comment regarding desired character of the area is addressed as part of the findings below. The comment regarding consistency with the Comprehensive Plan is not addressed below because the Portland Zoning Code includes a definition of "desired character of the area" and that definition does not reference the Comprehensive Plan.

Cumulative impacts

Mr. Ellis states that Criterion C wasn't addressed as part of the applicant's narrative and should have been because there are four separate buildings proposed, and therefore there should be four separate Adjustment requests.

Staff response: Criterion C states that where multiple Adjustments are requested, the proposal will be consistent with the purpose of the zone. There are not multiple Adjustments requested. There is one request to increase the maximum allowed height for the site. It just happens that this maximum height increase would apply to four buildings. Furthermore, Criterion B already requires analysis of

whether the proposal is consistent with the purpose of the zone; therefore responding to Criterion C would be redundant.

Mitigation

Mr. Ellis states that the applicant failed to demonstrate compliance with Criterion E which requires the proposal to mitigate for any impacts resulting from the Adjustment. He says that the design approach to “fit into the hillside” is not mitigation because excavation is not mitigation, especially since development at this site would require excavation.

Staff response: Mitigation is addressed as part of the findings below.

Off-site parking and pedestrian pathway

Mr. Ellis states that the applicant has allowed residents of the apartment complex he owns to the northwest of the site to park at the site and built a path between the apartment complex and the site. He says these same tenants are often sources of illegal parking as well as “over-congestion on Canyon Court, 66th Avenue, and within the private streets owned by the Association. The general consensus is that the applicant failed to develop sufficient parking at the other apartment complex to support the parking needs”. Mr. Ellis states that commercial parking is not allowed in the CN2 zone.

Staff response: The path is proposed to be removed as part of the development of the site. There are 452 parking spaces at the apartment complex to the northwest of the site and 289 dwelling units. The amount of parking supplied was approved by Washington County and is not subject to this review. The private streets some condominium association members live on are signed to inform drivers that no parking is allowed so enforcement could be requested in those situations. No commercial parking is proposed. A condition of approval requires the removal of the pedestrian pathway.

ZONING CODE APPROVAL CRITERIA AND ADJUSTMENT COMMITTEE FINDINGS

33.805.010 Purpose of Adjustments The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below, have been met.

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings:

The purposes of the building height regulation in the CN2 zone are found in Section 33.120.210.A. “The height limits are intended to control the overall scale of buildings. The height limits in the CN1, CN2, and CO1 discourage buildings which visually dominate adjacent residential areas.... Light, air, and the potential for privacy are intended to be preserved in adjacent residential zones.” The purposes can be summarized as controlling the scale of buildings, discouraging visual dominance, maintaining access to light and air, and

ensuring the potential for privacy. Each of those purposes is analyzed for each of the four buildings separately below.

Building 1

Purpose: To control the overall scale of buildings.

Finding: Scale of Buildings

The Committee finds that Title 33 does not define scale, and that the applicant's selection and use of dictionary definitions to frame the issue is required by the Section 33.910.010 statement that undefined words in the zoning code "have their normal dictionary meaning." The *Oxford Dictionary of Architecture* defines scale as "the proportions of a building or its parts with reference to a module or unit of measurement" (*Oxford Dictionary of Architecture*, 2nd Edition, Oxford University Press, 2006). Webster's defines it as "7a: relative size of esp. architectural parts as compared with the whole * * * b : proper or intended size proportion, and relationship with reference to other elements and to the whole or to the setting[.]" (*Webster's Third New Int'l Dictionary*; 2023 (unabridged ed. 1981)). The Committee evaluated the appellant's materials and finds no contrary definitions, or evidence to suggest the definition presented by the applicant is flawed.

In analyzing this proposed building, these definitions may be summarized as the size, shape and mass in relation to other buildings on the site, to the site generally and its unusually steep topography, and to the higher slopes and residential development on adjacent properties.

This is an unusually large site for urban development, and as defined above, the scale of the building is analyzed in proportion to the other building elements and natural features on the 3.64 acre site and in proportion to the surrounding terrain and development. The perception of building scale is inversely proportional to both the distance between the building and the observer, and to the overall size of the site. The closer the observer is to a building, the larger it appears, and the larger the site, the smaller the building appears to that same observer. The steep topography influences this analysis, so that is addressed first for context.

In order to discuss the proposed height, it is first important to explain how height is measured on sites with significant slope. This measurement is referred to as "Base Point 2" in Figure 930-7 of Section 33.930.050. Base Point 2 identifies the lowest grade of the building and then measures height from a point 10 feet above that grade. The intention is to account for the slope of the site as part of the measurement. (The "Base Point 1" height measurement applies to relatively flat sites and measures height from the highest grade of the building. See Figure 930-6.)

This site has a steeper slope than the 10-foot allowance provided by the Base Point 2 measurement. Exhibit C-1 shows the lowest existing grade elevation of Building 1 is at 716 feet whereas the highest grade elevation is 739 feet, a difference of 23 feet. The same is true for Building 2 which has a lowest point at the off-set entrance to the structured parking at 709 feet whereas the highest grade elevation is 725 feet, a difference of 16 feet. The lowest grade elevation of Building 3 is 737 feet and the highest grade elevation is 751 feet, a difference of 14 feet. The lowest grade elevation of Building 4 is 746 feet and the highest grade elevation is 767 feet, a difference of 21 feet. For this reason the slope of the site is not fully accounted for by the Base Point 2 height measurement standard.

Along the eastern boundary, the terrain slopes down toward the south. The elevation of the northeast property corner is 757 feet, which steadily drops to just 722 feet at the back of the sidewalk. This 35 foot drop, equal to roughly three building stories, presents a stiff challenge

to any architect. The design solution is to gently skew the footprint of Building 1 further away from the boundary as the building moves north. This increases the east side setback from the code minimum 14 feet at the southeast building corner, where the elevation is 721 feet, to 26 feet at the northeast building corner, where the elevation is 739 feet. In other words, the building alignment relieves much of the vertical difference in grade as one moves south to north, and in so doing it nearly doubles the required setback.

As shown on the topographic map obtained from Metro, Exhibit H20, and the topographic map, Ex H8, east of the site the slope continues rising toward the northeast. Returning to the perception of scale, the height of Building 1 is diminished when viewed from the east, because the viewer is higher than the grade of Building 1. Exhibit C-4 illustrates this in section view. The grade level of the adjacent residential property to the east is slightly above the finished floor level of the 3rd story of apartments in Building 1. The peak of the Building 1 roof is only about 22 feet above the grade of the residential property to the east.

Because Building 1 is set much lower than its current and any prospective neighboring building to the east, and because the side setback increases to more than double the required minimum, the perceived height, mass and scale of Building 1 are reduced. In addition, the adjacent property to the east is zoned R-1 with a height limit of 45 feet. Exhibit C-4 illustrates that the peak of the roof of a future building on this parcel will likely be about 26 feet higher than the peak of the Building 1 roof. Analyzing the comparative height of Building 1 in the context of the grade along the eastern edge of the site and the continuing rise of the property to the east, the proposed Building 1 height is not out of scale.

The Committee finds that Building 1 is taller than allowed by code, and that the site plan Ex C-1 shows a smaller footprint and that Building 1 is set back from the south, north and east property lines much farther than the minimum. In other words, though taller, it is also substantially shorter in both length and width. It also finds that the unusually steep slope of the site is not fully accounted for by the Base Point 2 height measurement standard, because that standard only accounts for 10 feet of grade change whereas this site has a much larger grade change, and therefore that unusual site conditions merit extra attention.

The proposed design places the taller facades of the buildings toward the interior of the site, and a shorter facade faces the adjacent property to the east. Many trees and much pervious surface are preserved by this proposal as compared to a code compliant design. The Committee finds that Landscape Plan Ex H15 and tree removal Sheet TS/2 of Ex H16 are substantial evidence these generous setbacks are occupied by dense landscape screens which serve to soften the apparent scale as perceived from the adjacent residential properties.

The applicant's analysis of the height adjustment as perceived from the elevated grades of residential building sites on neighboring properties with different residential zoning is substantiated by Metro topographic map Ex H20, site sections in Ex H7 and Zoning Map Ex B, and the Committee finds the analysis plausible and convincing. The Committee considered the appellants' testimony and finds no substantial contrary evidence regarding the topography or sight lines, or regarding the perception of height and scale from neighboring properties to the east and north of Building 1.

The applicant presented code compliant alternative designs for Building 1 on Sheets A/1.4, A/1.5 of Ex H7 (designs that comply with the code's height limit and require no adjustments) and tree removal Sheets TS/3, TS/4 and TS/5 of Ex H16. The Committee finds that the alternative designs are more massive in scale because they are longer in length and width, are closer to the setback lines, increase building square footage and lot coverage, increase impervious surface, remove more trees, and thus are larger in overall scale than the proposed design with the height adjustment. It especially notes that their location closer to the property

lines, in combination with reduced landscape screening, means their perceived scale from adjacent residential properties would be increased.

The Committee examined the appellants' materials and finds they do not specifically address this comparison between alternative designs for Building 1, and that there is no substantial evidence in the record that the alternative designs are not actually code compliant or that their massing and scale is actually smaller overall than the proposed design with the height adjustment.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to control the *overall* scale of buildings.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not control the *overall* scale of the buildings, it only controls height. The Committee finds that the proposed design balances the height adjustment and lessens the *overall* scale of the buildings by reducing their length, width and lot coverage, and thereby increasing their setbacks and tree preservation.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of the *overall* scale of the buildings than the appellant's interpretation that precludes consideration of other elements of scale such as building length and lot coverage.

The Committee therefore concludes that the proposed Building 1 design equally or better meets this purpose of the height standard than an alternative design allowed by right which satisfies the height standard but is larger in overall scale due to increased building length, width, square footage, lot coverage and tree removal.

Purpose: To discourage buildings which visually dominate adjacent residential areas.

Finding: Visual Dominance

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north (west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that Title 33 does not define visual dominance, and that the applicant's selection and use of a Webster's dictionary definition to frame the issue is required by Section 33.910.010. The *Webster's* definition of dominant is: "overlooking and commanding from a superior position; e.g. a dominant hill." The Committee evaluated the appellants' materials and finds no contrary definitions, or evidence to suggest the Webster's definition is flawed.

The Committee finds that Building 1 is taller than allowed outright by code, but also notes that Sheets A/1.0 and A/1.1 of Ex H14 are substantial evidence that it also has a smaller footprint and is set back from the south, north and east property lines much further than the minimum. In other words, though taller, it is also substantially shorter in length and width, and therefore preserves more sight lines than the alternative designs. Many trees and much impervious surface are preserved as compared to the alternative code compliant designs. It finds that Landscape Plan Ex H15 and tree removal Sheet TS/2 of Ex H16 are substantial

evidence these generous setbacks are occupied by dense landscape screens which serve to soften the visual appearance and reduce the potential visual dominance of the buildings over the landscape on the site and on adjacent residential areas.

The applicant's analysis of the perception of visual dominance from residential building sites on neighboring properties based on their increased elevation and zoning is substantiated by Metro topographic map Ex H20, site section Ex H7 and Zoning Map Ex B, and the Committee finds the analysis plausible and convincing. The Committee considered the appellants' testimony and finds no substantial contrary evidence regarding the visual dominance of Building 1 from neighboring properties to the east and north given their topography and zoning.

The applicant presented code compliant alternative designs for Building 1 (designs that comply with the code's height limit and require no adjustment), and the Committee finds that they result in buildings that are longer in length and width, are closer to the setback lines, increase building square footage and lot coverage, increase impervious surface, block more sight lines, remove more trees, and thus are more visually dominant than the proposed design with the height adjustment. It especially notes that their location closer to the property lines, in combination with reduced landscape screening, means their perceived dominance from adjacent residential properties would be increased.

The Committee reviewed the appellants' evidence and finds it does not specifically address this comparison between alternative designs, and that there is no substantial evidence in the record that the alternative designs are not actually code compliant or that their visual dominance is actually less than the proposed design with the height adjustment.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to discourage visual dominance.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not discourage visual dominance, it only controls height. The Committee finds that the proposed design balances the height adjustment and discourages visual dominance of the buildings by reducing their length, width and lot coverage, and thereby increasing their setbacks and tree preservation.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of the visual dominance of the buildings than the appellant's interpretation that precludes consideration of other elements of visual dominance such as building length, lot coverage, topography and landscape screening.

The Committee therefore concludes that the proposed design equally or better meets this purpose of the height standard than an alternative design allowed by right which satisfies the height standard but is more visually dominant due to increased building size overall.

Purpose: To preserve light in adjacent residential zones.

Finding: Light Preservation

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north

(west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that a purpose of the height limit for light preservation is to limit the area of shadow cast on surrounding residential properties. The comparative effect of the proposed larger east and north setbacks, versus a code compliant structure built closer to the 14 foot setback line is clear. The shadow study in Exhibit H7 compares the shadow cast toward neighbors by the proposal with adjustment to a shadow cast by a shorter building without a height adjustment. The Committee finds that the area covered by the shadow of the Code Compliant Apartment Design substantially exceeds the area affected by the proposed Building 1.

The Committee reviewed Zoning Map Ex B regarding the environmental protection and conservation zones on Tax Lot 1500 just north of the site, the Metro topographic map, and the aerial photo. It finds that the applicant's narrative explanation of the likely site of any future house on the eastern portion of is reasonable and substantial. It reviewed appellants' submittals and testimony and finds that there is no substantial contrary evidence in the record on potential development of this tax lot, or on the light effect of Building 1 on that tax lot.

The Committee also reviewed the applicant's tree removal Sheet TS/2 of Ex H16, Landscape Plan Ex H15 and the aerial photo of the dense vegetation in Ex H17 existing along the east and north property boundaries. It finds that existing and proposed trees on the site and existing trees on the adjacent properties will cast shadow and restrict light on neighboring properties more than the proposed Building 1.

The Committee finds that the code complaint designs cast more shadow on neighboring residential zones because they are set closer to the property lines. It also finds the applicant's comparison of the proposed design with adjustment to code compliant designs with potentially greater impacts on light restriction is appropriate because it analyzes how the height adjusted building may actually reduce light impacts better than a code compliant design, which the Committee finds to be a reasonable interpretation of this Code provision.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to preserve light in adjacent residential zones.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not reduce shadows and preserve light in residential zones, it only controls height. The Committee finds that the proposed design balances the height adjustment and preserves more light by reducing building length, width and lot coverage, and thereby increasing their setbacks and reducing shadows.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of light preservation than the appellant's interpretation that precludes consideration of other building elements that affect light preservation such as setbacks, building length and lot coverage.

The shadow studies in Ex H7 demonstrate that it is more likely than not that the adjusted Building 1 height equally or better maintains light than constructing a shorter wall much closer to the property boundary as allowed without an adjustment because proximity to the

property lines will cast more shadow than a taller building set back further from the property line. The Committee therefore finds the proposal equally or better meets the light related purpose of the setback compared to the alternative code compliant structures.

Purpose: To preserve air in adjacent residential zones.

Finding: Air Preservation

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north (west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that whether the purpose of preserving air is met must be determined by comparing the volume of air restricted by the proposed Building 1 to the volume restricted by a code compliant structure, and that the purpose of preserving air is better served by the design which has a larger volume of air between the building and the property line. Specifically, this volume is measured between the building wall and a vertical plane extending upward from the adjacent property line.

The Committee finds that the applicant's comparison of the proposed Building 1 with the height adjustment to a code compliant design is an appropriate analytical method. The applicant's proposal has a larger volume of air between the building and the property lines, whereas the code compliant designs closer to the property lines have a smaller volume of air in that location. This comparison accounts for all the air volume between the building and the property lines which the Committee concludes is the most reasonable interpretation of this Code provision.

The function of the height standard for preservation of air for adjacent residential zones is to limit the volume of air restricted between the building walls and the property line. The flow of air, unobstructed by building walls, is encouraged by the applicable height and setback provisions. To "equally or better" meet this purpose, an applicant must present substantial evidence that the volume of air between the property line and the proposed adjusted wall is no less than would be provided by a wall allowed without adjustment. The volume of the air for the applicant's proposal is greater than the volume of the code compliant design. The Committee finds the site plans in Ex H14 are substantial evidence that demonstrate that it is more likely than not that the applicant's Building 1 design, with a 45 foot height, equally or better meets the air preservation purpose of the height standard because the alternative designs with a longer wall placed closer to the setback line restrict more air and will have greater adverse impact on preservation of air circulation than the adjusted proposal.

The Committee considered the arguments in letters submitted by Mr. Ellis and the Sylvan-Highlands Neighborhood Association, among others, which assert that (to quote Mr. Ellis) "The property owners and neighbors encircling this site have been and remain entitled to the benefit of the less intense development the regulations by their restrictive nature intentionally promote."

The Committee finds the proposed design is less intensive because Sheet A/1.1 of Ex H14 shows it substantially exceeds the south, east and north setbacks and thereby leaves a greater air volume between Building 1 and the east and north property lines than a code compliant design. The Committee also finds that appellants presented no contrary evidence in the record to demonstrate that air flow is more restricted by the proposed adjustment than it would be by a code compliant structure built at the minimum south, north and east setbacks.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to preserve air in adjacent residential zones.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not preserve air flow in adjacent residential zones, it only controls height. The Committee finds that the proposed design balances the height adjustment and preserves more air by reducing building length, width and lot coverage, and thereby increasing their setbacks and air flow for adjacent properties.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of air preservation than the appellant's interpretation that precludes consideration of other building elements that affect air preservation such as setbacks, building length and lot coverage.

The alternate site plans in Ex H14 demonstrate that it is more likely than not that the adjusted Building 1 restricts less air than a code compliant building allowed without adjustment, and therefore the Committee finds that the proposal equally or better meets the air preservation purpose of the height standard.

Purpose: To preserve the potential for privacy in adjacent residential zones.

Finding: Privacy Potential

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north (west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that the proposed extra width for the east and north setbacks shown on Sheet A/1.1 of Ex H14 improve the potential for privacy because they increase the visual distance between properties. The Committee also finds that the tree removal plan Sheet TS/2 of Ex H16 is substantial evidence these setbacks preserve more trees to provide visual screening. The Committee finds that Landscape Plan Ex H15 is substantial evidence that the setbacks provide more space for planting of additional conifer trees to provide year round screening.

The Committee also reviewed the Metro topographic map Ex H20, Zoning Map Ex B, and Section 33.430.140, and finds the applicant's evidence and testimony regarding the higher elevation and sight lines of adjacent properties, setback distance between property lines and buildings, and landscape screening is credible and substantial.

The Committee reviewed the evidence presented by the appellants and notes those parties have not responded to the applicant's evidence on the privacy benefits of the elevated grade of adjacent properties, extra width setbacks and landscape screening. The Committee finds that there is no substantial evidence in the record to indicate the privacy of adjacent residential zones is more adversely affected by the Building 1 height adjustment than it would be by the Code Compliant Apartments Design or the Code Compliant Mixed Use Design which place apartments closer to the property lines, remove substantial amounts of existing landscape

screen, and reduce space for additional planting. The Committee therefore concludes that the adjusted design of Building 1 equally or better preserves options for privacy and therefore meets this purpose of the height standard.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to preserve the potential for privacy in adjacent residential zones.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not preserve privacy in adjacent residential zones, it only controls height. The Committee finds that the proposed design balances the height adjustment and better preserves the potential for privacy by reducing tree removal, building length, width and lot coverage, and thereby increasing their setbacks and landscape screening.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of preservation of privacy than the appellant's interpretation that precludes consideration of other building and site elements that adversely impact privacy such as tree removal, setbacks, building length and lot coverage.

Building 2

Purpose: To control the overall scale of buildings.

Finding: Scale of Buildings

The Committee finds that Title 33 does not define scale, and that the applicant's selection and use of dictionary definitions to frame the issue is required by the Section 33.910.010 statement that undefined words in the zoning code "have their normal dictionary meaning." The Committee evaluated the appellant's materials and finds no contrary definitions, or evidence to suggest the definition presented by the applicant is flawed.

The Committee finds that Building 2 is taller than allowed by code, and notes that it also has a smaller footprint and is set back from all property lines much farther than the minimum, as shown on Sheet A/1.1 of Ex H14. In other words, though taller, it is also substantially shorter in both length and width. It also finds that the unusually steep slope of the site is not fully accounted for by the Base Point 2 height measurement standard, because that standard only accounts for 10 feet of grade change whereas this site has a much larger grade change, and therefore that unusual site conditions merit extra attention.

The proposed design places the taller facades of the buildings toward the interior of the site, and a shorter facade faces the adjacent property to the east. Many trees and much pervious surface are preserved by this proposal as compared to a code compliant design. The Committee finds that Landscape Plan Ex H15 and tree removal plan Sheet TS/2 of Ex H16 are substantial evidence these generous setbacks are occupied by dense landscape screens which serve to soften the apparent scale.

The applicant's analysis of the height adjustment as perceived from the elevated grades of residential building sites on neighboring properties is substantiated by Metro topographic map Ex H20, site sections in Ex H7 and Zoning Map Ex B, and the Committee finds the analysis plausible and convincing. The Committee considered the appellants' testimony and finds no

specific or substantial contrary evidence regarding the perception of height and scale from neighboring properties to the east and north of Building 2.

The applicant presented code compliant alternative designs for Building 2 on Sheets A/1.4 and A/1.5 of Ex H14, and the Committee finds that they are more massive because they are longer in length and closer to the north and south setback lines, increase building square footage and lot coverage, increase impervious surface, remove more trees, and thus are larger in overall scale than the proposed design with the height adjustment. It especially notes that their location closer to the property lines, in combination with reduced landscape screening, means their perceived scale from adjacent residential properties would be increased.

The Committee examined the appellants' materials and finds they do not specifically address this comparison between alternative designs, and that there is no substantial evidence in the record that the alternative designs are not actually code compliant or that their massing and scale is actually smaller overall than the proposed design with the height adjustment.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to control the *overall* scale of buildings.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not control the *overall* scale of the buildings, it only controls height. The Committee finds that the proposed design balances the height adjustment and lessens the *overall* scale of the buildings by reducing their length, width and lot coverage, and thereby increasing their setbacks and tree preservation.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of the *overall* scale of the buildings than the appellant's interpretation that precludes consideration of other elements of scale such as building length and lot coverage.

The Committee therefore concludes that the proposed Building 2 design equally or better meets this purpose of the height standard than an alternative design allowed by right which satisfies the height standard but is larger in overall scale due to increased building length, square footage and lot coverage.

Purpose: To discourage buildings which visually dominate adjacent residential areas.

Finding: Visual Dominance

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north (west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that Title 33 does not define visual dominance, and that the applicant's selection and use of a Webster's dictionary definition to frame the issue is required by Section 33.910.010. The *Webster's* definition of dominant is: "overlooking and commanding from a superior position; e.g. a dominant hill." The Committee evaluated the appellants' materials and finds no contrary definitions, or evidence to suggest the Webster's definition is flawed.

The Committee finds that although Building 2 is taller than allowed outright by code, it also has a smaller footprint and is set back from the south, north and east property lines much further than the minimum, as shown on Sheet A/1.2 of Ex H14. In other words, though taller, it is also substantially shorter in length and width, and therefore preserves more sight lines than the alternative designs. Many trees and much pervious surface are preserved as compared to a code compliant design. It finds that Landscape Plan Ex H15 and tree removal Sheet TS/2 of Ex H16 are substantial evidence these generous setbacks are occupied by dense landscape screens which serve to soften the visual appearance and reduce the potential visual dominance of the buildings over the landscape on the site and on adjacent residential areas.

The applicant's analysis of the perception of visual dominance from residential building sites on neighboring properties based on their increased elevation and zoning is substantiated by Metro topographic information, site sections in Ex H7 and Zoning Map Ex B, and the Committee finds the analysis plausible and convincing. The Committee considered the appellants' testimony and finds no specific or substantial contrary evidence regarding the visual dominance of Building 2 from neighboring properties to the east and north.

The applicant presented code compliant alternative designs for Building 2 on Sheets A/1.4 and A/1.5 of Ex H14, and the Committee finds that they are longer in length, are closer to the north and south setback lines, increase shadows especially to the north, increase building square footage and lot coverage, increase impervious surface, block more sight lines, remove more trees, and thus are more visually dominant than the proposed design with the height adjustment. It especially notes that their location closer to the property lines, in combination with reduced landscape screening, means their perceived dominance from adjacent residential properties would be increased.

The Committee reviewed the appellants' evidence and finds it does not specifically address this comparison between alternative designs, and that there is no substantial evidence in the record that the alternative designs are not actually code compliant or that their visual dominance is actually less than the proposed design with the height adjustment.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to discourage visual dominance.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not discourage visual dominance, it only controls height. The Committee finds that the proposed design balances the height adjustment and discourages visual dominance of the buildings by reducing their length, width and lot coverage, and thereby increasing their setbacks and tree preservation.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of the visual dominance of the buildings than the appellant's interpretation that precludes consideration of other elements of visual dominance such as building length, lot coverage, topography and landscape screening.

The Committee therefore concludes that the proposed design equally or better meets this purpose of the height standard than an alternative design allowed by right which satisfies the height standard but is more visually dominant due to increased building size overall.

Purpose: To preserve light in adjacent residential zones.

Finding: Light Preservation

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north (west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that the purpose of the height limit for light preservation is to limit the area of shadow cast on surrounding residential properties. The comparative effect of Building 2's proposed 61 foot north setback, versus a code compliant structure built closer to the 14 foot setback line is clear. The shadow study on the site cross sections in Ex H7 compares the shadow cast by the proposal with adjustment to a shadow cast by a shorter building without a height adjustment. The Committee finds that the area covered by the shadow of the Code Compliant Apartments Design and the Code Compliant Mixed Use Design substantially exceeds the area affected by the proposed Building 2.

The Committee reviewed Zoning Map Ex B regarding the environmental protection and conservation zones on Tax Lot 1500, the Metro topographic map Ex H20, and the aerial photos in Ex H13, and finds that the applicant's explanation of the likely site of any future house on the eastern portion of that parcel described above is reasonable and substantial. It reviewed appellants' submittals and testimony and finds that there is no substantial contrary evidence in the record on potential development of this tax lot, or on the light effect of Building 2 on that tax lot.

The Committee also reviewed the applicant's tree removal Sheet TS/2 of Ex H16, Landscape Plan Ex H15, and aerial photos of the dense vegetation existing along the north property boundary in Ex H13. It finds that existing and proposed trees on the site and existing trees on the adjacent properties will cast shadow and restrict light on neighboring properties more than the proposed Building 2.

The Committee finds that the code complaint designs cast more shadow on neighboring residential zones because they are set closer to the property lines. The Committee finds that the applicant's comparison of the proposed design with adjustment to code compliant designs with potentially greater impacts on light restriction is the correct analytical method because it analyzes how the height adjusted building may actually reduce light impacts better than a code compliant design, which the Committee finds to be the most reasonable interpretation of this Code provision.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to preserve light in adjacent residential zones.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not reduce shadows and preserve light in residential zones, it only controls height. The Committee finds that the proposed design balances the height adjustment and preserves more light by reducing building length, width and lot coverage, and thereby increasing their setbacks and reducing shadows.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of light preservation than the appellant's interpretation that precludes consideration of other building elements that affect light preservation such as setbacks, building length and lot coverage.

The applicant's evidence demonstrates that it is more likely than not that the adjusted Building 2 height equally or better maintains light than constructing a shorter wall much closer to the property boundary as allowed without adjustment because proximity to the property lines will cast more shadow than a taller building set back further from the property line. The Committee therefore finds the proposal equally or better meets the light related purpose of the setback compared to the code compliant structure.

Purpose: To preserve air in adjacent residential zones.

Finding: Air Preservation

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north (west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that whether the purpose of preserving air is met must be determined by comparing the volume of air restricted by the proposed Building 2 to the volume restricted by a code compliant structure, and that the purpose of preserving air is best served by the design which has a larger volume of air between the building and the property line. Specifically, this volume is measured between the building wall and a vertical plane extending upward from the adjacent property line.

The Committee finds that the applicant's comparison of the proposed Building 2 with the height adjustment to a code compliant design is the correct analytical method. The applicant's proposal has a larger volume of air between the building and the property lines, whereas the code compliant designs have a smaller volume of air in that location. This comparison accounts for all the air volume between the building and the property lines which the Committee concludes is the most reasonable interpretation of this Code provision.

The function of the height standard for preservation of air for adjacent residential zones is to limit the volume of air restricted between the building walls and the property line. The flow of air, unobstructed by building walls, is encouraged by the applicable height and setback provisions. To "equally or better" meet this purpose, an applicant must show by a preponderance of evidence that the volume of air between the property line and the proposed adjusted wall is no less than would be provided by a wall allowed without adjustment. The volume of the air for the applicant's proposal is greater than the volume of the code compliant design.

The Committee finds the site plans in Ex H14 are substantial evidence that demonstrate that it is more likely than not that the applicant's Building 2 design, with a 49.5 foot height, equally or better meets the air preservation purpose of the height standard. The alternative designs with a longer wall placed closer to the setback line restrict more air and will have greater adverse impact on preservation of air circulation around the north edge of Building 2 than the adjusted proposal.

The Committee considered the arguments in letters submitted by Mr. Ellis and the Sylvan-Highlands Neighborhood Association, among others, which assert that (to quote Mr. Ellis) "The property owners and neighbors encircling this site have been and remain entitled to the

benefit of the less intense development the regulations by their restrictive nature intentionally promote.”

The Committee finds the proposed design is less intensive because it substantially exceeds the south, east and north setbacks as shown on Sheet A/1.1 of Ex H14, and thereby leaves a greater air volume between Building 2 and the property lines than a code compliant design. The Committee also finds that appellants presented no contrary evidence in the record to demonstrate that air flow is more restricted by the proposed adjustment than it would be by a code compliant structure built at the minimum south, north and east setbacks.

The Committee also weighed the appellants’ proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant’s contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to preserve air in adjacent residential zones.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not preserve air flow in adjacent residential zones, it only controls height. The Committee finds that the proposed design balances the height adjustment and preserves more air by reducing building length, width and lot coverage, and thereby increasing their setbacks and air flow for adjacent properties.

The Committee finds that nothing in the code precludes the applicant’s comparison, and concludes that this comparison allows a better assessment of air preservation than the appellant’s interpretation that precludes consideration of other building elements that affect air preservation such as setbacks, building length and lot coverage.

The site plan exhibits demonstrate that it is more likely than not that the adjusted Building 2 restricts less air than a code compliant building allowed without adjustment, and therefore the Committee finds that the proposal equally or better meets the air preservation purpose of the height standard.

Purpose: To preserve the potential for privacy in adjacent residential zones.

Finding: Privacy Potential

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north (west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that the proposed extra width for the north setback shown on Sheet A/1.1 of Ex H14 improves the potential for privacy by increasing the visual distance between properties. The Committee also finds that the tree removal Sheet TS/2 of Ex H16 is substantial evidence the setback preserves more trees to provide visual screening. The Committee finds that Landscape Plan Ex H15 is substantial evidence that the setback also provides more space for planting of additional conifer trees to provide year round screening.

The Committee also reviewed the Metro topographic map Ex H20, Zoning Map Ex B, and Section 33.430.140, and finds the applicant’s evidence and testimony regarding the higher elevation and sight lines of the adjacent property, setback distance between buildings, and landscape screening is credible and substantial.

The Committee reviewed the evidence presented by the appellants and notes those parties have not responded to the applicant's evidence on the privacy benefits of the elevated grade of adjacent properties, extra width setbacks and landscape screening. The Committee finds that there is no substantial evidence in the record to indicate the privacy of adjacent residential zones to the east and north is more adversely affected by the Building 2 height adjustment than it would be by the Code Compliant Apartments Design or the Code Compliant Mixed Use Design which place apartments closer to the property lines, remove substantial amounts of existing landscape screen, and reduce space for additional planting. The Committee therefore concludes that the adjusted design of Building 2 equally or better preserves options for privacy and therefore meets this purpose of the height standard.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to preserve the potential for privacy in adjacent residential zones.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not preserve privacy in adjacent residential zones, it only controls height. The Committee finds that the proposed design balances the height adjustment and better preserves the potential for privacy by reducing tree removal, building length, width and lot coverage, and thereby increasing their setbacks and landscape screening.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of preservation of privacy than the appellant's interpretation that precludes consideration of other building and site elements that adversely impact privacy such as tree removal, setbacks, building length and lot coverage.

Building 3

Purpose: To control the overall scale of buildings.

Finding: Scale of Buildings

The Committee finds that Title 33 does not define scale, and that the applicant's selection and use of dictionary definitions to frame the issue is required by the Section 33.910.010 statement that undefined words in the zoning code "have their normal dictionary meaning." The Committee evaluated the appellant's materials and finds no contrary definitions, or evidence to suggest the definition presented by the applicant is flawed.

The Committee finds that Building 3 is taller than allowed by code, and notes that it also has a smaller footprint and is set back from the south and north farther than the minimum, as shown on Sheet A/1.1 of Ex H14. In other words, though taller, it is also substantially shorter in length. It also finds that the unusually steep slope of the site is not fully accounted for by the Base Point 2 height measurement standard, because that standard only accounts for 10 feet of grade change whereas this site has a much larger grade change, and therefore that unusual site conditions merit extra attention.

The proposed design places the taller facades of the buildings toward the interior of the site, and a shorter facade faces the adjacent property to the north. Many trees and much pervious surface are preserved by this proposal as compared to a code compliant design. The

Committee finds that Landscape Plan Ex H15 and tree removal Sheet TS-2 are substantial evidence these generous setbacks are occupied by dense landscape screens which serve to soften the apparent scale.

The applicant's analysis of the height adjustment as perceived from the elevated grades of residential building sites on neighboring properties is substantiated by Metro topographic map Ex H20, site sections in Ex H7 and Zoning Map Ex B, and the Committee finds the analysis plausible and convincing. The Committee considered the appellants' testimony and finds no substantial contrary evidence regarding the perception of height and scale from the adjacent neighboring property to the north of Building 3 given the topography and zoning.

The applicant presented code compliant alternative designs for Building 3 in Ex H14, and the Committee finds that they are more massive because they are longer in length, are closer to the south setback line, increase building square footage and lot coverage, increase impervious surface, remove more trees, and thus are larger in overall scale than the proposed design with the height adjustment. It especially notes that their location closer to the north property line, in combination with reduced landscape screening, means the perceived scale from the adjacent home site on Tax Lot 1500 would be increased.

The Committee examined the appellants' materials and finds they do not specifically address this comparison between alternative designs, and that there is no substantial evidence in the record that the alternative designs are not actually code compliant or that their massing and scale is actually smaller overall than the proposed design with the height adjustment.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to control the *overall* scale of buildings.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not control the *overall* scale of the buildings, it only controls height. The Committee finds that the proposed design balances the height adjustment and lessens the *overall* scale of the buildings by reducing their length, width and lot coverage, and thereby increasing their setbacks and tree preservation.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of the *overall* scale of the buildings than the appellant's interpretation that precludes consideration of other elements of scale such as building length and lot coverage.

The Committee therefore concludes that the proposed Building 3 design equally or better meets this purpose of the height standard than an alternative design allowed by right which satisfies the height standard but is larger in overall scale due to increased building length, width, square footage and lot coverage.

Purpose: To discourage buildings which visually dominate adjacent residential areas.

Finding: Visual Dominance

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north

(west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that Title 33 does not define visual dominance, and that the applicant's selection and use of a Webster's dictionary definition to frame the issue is required by Section 33.910.010. The *Webster's* definition of dominant is: "overlooking and commanding from a superior position; e.g. a dominant hill." The Committee evaluated the appellants' materials and finds no contrary definitions, or evidence to suggest the Webster's definition is flawed.

The Committee finds that although Building 3 is taller than allowed outright by code, it also has a smaller footprint and is set back from the north property line further than the minimum, and is nowhere near the east, south and west setback lines. See Ex. H14. In other words, though taller, it is also substantially shorter in length and width, and therefore preserves more sight lines than the alternative designs. Many trees and much pervious surface are preserved as compared to a code compliant design. It finds that Landscape Plan Ex H15 and tree removal Sheet TS/2 of Ex H16 are substantial evidence that the generous setbacks will be occupied by dense landscape screens which serve to soften the visual appearance and reduce the potential visual dominance of the buildings over the landscape on the site and on adjacent residential areas.

The applicant's analysis of the perception of visual dominance from the residential building site on Tax Lot 1500 based on its increased elevation and zoning is substantiated by Metro topographic map Ex H20, site section Sheet 4/A5.5 of Ex H7 and Zoning Map Ex B, and the Committee finds the analysis plausible and convincing. The Committee considered the appellants' testimony and finds no substantial contrary evidence regarding the visual dominance of Building 3 from the neighboring property north given the topography and zoning.

The applicant presented code compliant alternative designs for Building 3 in Ex H14, and the Committee finds that they are longer in length and width, are closer to the north setback line, increase building square footage and lot coverage, increase impervious surface, block more sight lines, remove more trees, and thus are more visually dominant than the proposed design with the height adjustment. It especially notes that their location closer to the property lines, in combination with reduced space for landscape screening, means their perceived dominance from adjacent residential properties would be increased.

The Committee reviewed the appellants' evidence and finds it does not specifically address this comparison between alternative designs, and that there is no substantial evidence in the record that the alternative designs are not actually code compliant or that their visual dominance is actually less than the proposed design with the height adjustment.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to discourage visual dominance.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not discourage visual dominance, it only controls height. The Committee finds that the proposed design balances the height adjustment and discourages visual dominance of the buildings by reducing their length, width and lot coverage, and thereby increasing their setbacks and tree preservation.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of the visual dominance of the buildings than the appellant's interpretation that precludes consideration of other elements of visual dominance such as building length, lot coverage, topography and landscape screening.

The Committee therefore concludes that the proposed design equally or better meets this purpose of the height standard than an alternative design allowed by right which satisfies the height standard but is more visually dominant due to increased building size overall.

Purpose: To preserve light in adjacent residential zones.

Finding: Light Preservation

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north (west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that the purpose of the height limit for light preservation is to limit the area of shadow cast on surrounding residential properties. The comparative effect of the proposed larger north setback, versus a code compliant structure built closer to the property line is clear. The study on Sheet A/5.5 of Ex H14 compares the shadow cast by the proposal with adjustment to a shadow cast by a shorter building without a height adjustment. The Committee finds that the area covered by the shadow of the code compliant alternative designs substantially exceeds the shadow effect of the proposed Building 3.

The Committee reviewed Zoning Map Ex B regarding the environmental protection and conservation zones on Tax Lot 1500, the Metro topographic map Ex H20, and the aerial photos in Ex H13, and finds that the applicant's explanation of the likely site of any future house on the western portion of that parcel described above is reasonable and substantial. It reviewed appellants' submittals and testimony and finds that there is no substantial contrary evidence in the record on potential development of this tax lot, or on the light effect of Building 3 on that tax lot.

The Committee also reviewed the applicant's tree removal Ex H16, Landscape Plan Ex H15 and the aerial photos of the dense vegetation existing along both sides of the north property boundary in Ex H13. It finds these are substantial evidence that existing and proposed trees on the site and existing trees on the adjacent property will cast shadow and restrict light on Tax Lot 1500 more than the proposed Building 3.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to preserve light in adjacent residential zones.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not reduce shadows and preserve light in residential zones, it only controls height. The Committee finds that the proposed design

balances the height adjustment and preserves more light by reducing building length, width and lot coverage, and thereby increasing their setbacks and reducing shadows.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of light preservation than the appellant's interpretation that precludes consideration of other building elements that affect light preservation such as setbacks, building length and lot coverage.

The Committee finds that the code complaint designs cast more shadow on neighboring residential zones because they are set closer to the property lines. The Committee finds that the applicant's comparison of the proposed design with adjustment to code compliant designs with potentially greater impacts on light restriction is the correct analytical method because it analyzes how the height adjusted building may actually reduce light impacts better than a code compliant design, which the Committee finds to be the most reasonable interpretation of this Code provision.

The shadow exhibits demonstrate that it is more likely than not that the adjusted Building 3 height equally or better maintains light than constructing a 3 foot shorter wall much closer to the property boundary as allowed without adjustment because proximity to the property line will cast more shadow than a slightly taller building set back further from the property line. The Committee therefore finds the proposal equally or better meets the light related purpose of the setback compared to the code compliant alternatives.

Purpose: To preserve air in adjacent residential zones.

Finding: Air Preservation

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north (west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that whether the purpose of preserving air is met must be determined by comparing the volume of air restricted by the proposed Building 3 to the volume restricted by a code compliant structure, and that the purpose of preserving air is best served by the design which has a larger volume of air between the building and the property line. Specifically, this volume is measured between the building wall and a vertical plane extending upward from the adjacent property line.

The function of the height standard for preservation of air for adjacent residential zones is to limit the volume of air restricted between the building walls and the property line. The flow of air, unobstructed by building walls, is encouraged by the applicable height and setback provisions. To "equally or better" meet this purpose, an applicant must show by a preponderance of evidence that the volume of air between the property line and the proposed adjusted wall is no less than would be provided by a wall allowed without adjustment.

The Committee finds that the applicant's comparison of the proposed Building 3 with the height adjustment to a code compliant design that is three feet lower but can be placed just 10 feet from the property line is the correct analytical method.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to preserve air in adjacent residential zones.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not preserve air flow in adjacent residential zones, it only controls height. The Committee finds that the proposed design balances the height adjustment and preserves more air by reducing building length, width and lot coverage, and thereby increasing their setbacks and air flow for adjacent properties.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of air preservation than the appellant's interpretation that precludes consideration of other building elements that affect air preservation such as setbacks, building length and lot coverage.

The applicant's proposal has a larger volume of air between the building and the property line, whereas the code compliant designs have a smaller volume of air in that location. This comparison accounts for all the air volume between the building and the property line which the Committee concludes is the most reasonable interpretation of this Code provision.

The Committee finds the site plans in Ex H14 are substantial evidence that demonstrate that it is more likely than not that the applicant's Building 3 design, with a 33 foot height, equally or better meets the air preservation purpose of the height standard. The alternative designs with a longer wall placed closer to the setback line restrict more air and will have greater adverse impact on preservation of air circulation than the adjusted proposal.

The Committee considered the arguments in letters submitted by Mr. Ellis and the Sylvan-Highlands Neighborhood Association, among others, which assert that (to quote Mr. Ellis) "The property owners and neighbors encircling this site have been and remain entitled to the benefit of the less intense development the regulations by their restrictive nature intentionally promote."

The Committee finds the proposed design is less intensive because it substantially exceeds the north setback and thereby leaves a greater air volume between Building 3 and the north property line than a code compliant design. The Committee also finds that appellants presented no contrary evidence in the record to demonstrate that air flow is more restricted by the proposed adjustment than it would be by a code compliant structure built at the minimum north setback.

The site plan exhibits Sheets A/1.4 and A/1.5 demonstrate that it is more likely than not that the adjusted Building 3 restricts less air than a code compliant building allowed without adjustment, and therefore the Committee finds that the proposal equally or better meets the air preservation purpose of the height standard.

Purpose: To preserve the potential for privacy in adjacent residential zones.

Finding: Privacy Potential

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north (west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that the proposed extra width north setback shown on Sheet A/1.1 of Ex H14 improves the potential for privacy because it increases the visual distance between properties. The Committee finds that Landscape Plan Ex H15 is substantial evidence that the setbacks provide more space for planting of additional conifer trees to provide year round screening.

The Committee also reviewed the Metro topographic map Ex H20, Zoning Map Ex B, and Section 33.430.140, and finds the applicant's evidence and testimony regarding the higher elevation and sight lines of adjacent properties, setback distance between property lines and buildings, and landscape screening is credible and substantial.

The Committee reviewed the evidence presented by the appellants and notes those parties have not responded to the applicant's evidence on the privacy benefits of the elevated grade of adjacent properties, the extra width setbacks and landscape screening.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to preserve the potential for privacy in adjacent residential zones.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not preserve privacy in adjacent residential zones, it only controls height. The Committee finds that the proposed design balances the height adjustment and better preserves the potential for privacy by reducing tree removal, building length, width and lot coverage, and thereby increasing their setbacks and landscape screening.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of preservation of privacy than the appellant's interpretation that precludes consideration of other building and site elements that adversely impact privacy such as tree removal, setbacks, building length and lot coverage.

The Committee finds that there is no substantial evidence in the record to indicate the privacy of adjacent residential zones is more adversely affected by the Building 3 height adjustment of just three feet than it would be by the Code Compliant Apartments Design or the Code Compliant Mixed Use Design which place apartments closer to the north property line, and reduce space for tree planting. The Committee therefore concludes that the adjusted design of Building 3 equally or better preserves options for privacy and therefore meets this purpose of the height standard.

Building 4

Purpose: To control the overall scale of buildings.

Finding: Scale of Buildings

The Committee finds that Title 33 does not define scale, and that the applicant's selection and use of dictionary definitions to frame the issue is required by the Section 33.910.010 statement that undefined words in the zoning code "have their normal dictionary meaning." The Committee evaluated the appellant's materials and finds no contrary definitions, or evidence to suggest the definition presented by the applicant is flawed.

The Committee finds that Building 4 is three feet taller than allowed by code, and notes that it also has a smaller footprint and is set back from the west, south, and north property lines much farther than the minimum, as shown on Sheet A/1.1 of Ex H14. In other words, though taller, it is also substantially shorter in both length and width. It also finds that the unusually steep slope of the site is not fully accounted for by the Base Point 2 height measurement standard, because that standard only accounts for 10 feet of grade change whereas this site has a much larger grade change, and therefore that unusual site conditions merit extra attention.

Many trees and much pervious surface are preserved by this proposal as compared to a code compliant design. The Committee finds that Landscape Plan Ex H15 and tree removal Ex H16 are substantial evidence these generous setbacks are occupied by dense landscape screens which serve to soften the apparent scale.

The applicant's analysis of the height adjustment as perceived from the elevated grades of residential building sites on neighboring properties is substantiated by Metro topographic information, site section Ex H7 and Zoning Map Exhibit B, and the Committee finds the analysis plausible and convincing. The Committee considered the appellants' testimony and finds no substantial contrary evidence regarding the perception of height and scale from neighboring properties to the west and north of Building 4 given their elevated topography and zoning.

The applicant presented code compliant alternative designs for Building 4 in Ex H14, and the Committee finds they are more massive because they are longer in length and width, are closer to the setback lines, increase building square footage and lot coverage, increase impervious surface, remove more trees, and thus are larger in overall scale than the proposed design with the height adjustment. It especially notes that their location closer to the property lines, in combination with reduced area for landscape screening, means their perceived scale from adjacent residential properties would be increased.

The Committee examined the appellants' materials and finds they do not specifically address this comparison between alternative designs, and that there is no substantial evidence in the record that the alternative designs are not actually code compliant or that their massing and scale is actually smaller overall than the proposed design with the height adjustment.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to control the *overall* scale of buildings.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not control the *overall* scale of the buildings, it only controls height. The Committee finds that the proposed design balances the height adjustment and lessens the *overall* scale of the buildings by reducing their length, width and lot coverage, and thereby increasing their setbacks and tree preservation.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of the *overall* scale of the buildings than the appellant's interpretation that precludes consideration of other elements of scale such as building length and lot coverage.

The Committee therefore concludes that the proposed Building 4 design equally or better meets this purpose of the height standard than an alternative design allowed by right which satisfies the height standard but is larger in overall scale due to increased building length, width, square footage and lot coverage.

Purpose: To discourage buildings which visually dominate adjacent residential areas.

Finding: Visual Dominance

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north (west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that Title 33 does not define visual dominance, and that the applicant's selection and use of a Webster's dictionary definition to frame the issue is required by Section 33.910.010. The *Webster's* definition of dominant is: "overlooking and commanding from a superior position; e.g. a dominant hill." The Committee evaluated the appellants' materials and finds no contrary definitions, or evidence to suggest the Webster's definition is flawed.

The Committee finds that Building 4 is three feet taller than allowed outright by code, but has a smaller footprint and is set back from the south, north and west property lines much further than the minimum as shown on Sheet A/1.1 of Ex H14. In other words, though taller, it is also substantially shorter in length and width, and therefore preserves more sight lines than the alternative designs. Many trees and much pervious surface are preserved as compared to a code compliant design, as demonstrated by Sheets A/1.4, A/1.5 and the tree removal plans of Ex H16. It finds that these exhibits are substantial evidence these generous setbacks are occupied by dense landscape screens which serve to soften the visual appearance and reduce the potential visual dominance of the buildings over the landscape on the site and on adjacent residential areas.

The applicant's analysis of the perception of visual dominance from residential building sites on neighboring properties based on their increased elevation and zoning is substantiated by Metro topographic map Ex H20, site sections in Ex H7, and zoning map exhibits, and the Committee finds the analysis plausible and convincing.

The Committee considered the appellants' testimony about the perceived height of Building 4 being more than three stories when viewed from the west. It finds the west elevation in Ex H7 clearly shows the building is three stories on that side.

The applicant presented code compliant alternative designs for Building 4 in Ex H14 and tree removal Ex H16, and the Committee finds that they are longer in length and width, are closer to the setback lines, increase building square footage and lot coverage, increase impervious surface, block more sight lines, remove more trees, and thus are more visually dominant than the proposed design with the height adjustment. It especially notes that their location closer to the property lines, in combination with reduced landscape screening, means their perceived dominance from adjacent residential properties would be increased.

The Committee reviewed the appellants' evidence and finds it does not specifically address this comparison between alternative designs, and that there is no substantial evidence in the record that the alternative designs are not actually code compliant or that their visual dominance is actually less than the proposed design with the height adjustment.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to discourage visual dominance.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not discourage visual dominance, it only controls height. The Committee finds that the proposed design balances the height adjustment and discourages visual dominance of the buildings by reducing their length, width and lot coverage, and thereby increasing their setbacks and tree preservation.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of the visual dominance of the buildings than the appellant's interpretation that precludes consideration of other elements of visual dominance such as building length, lot coverage, topography and landscape screening.

The Committee therefore concludes that the proposed design equally or better meets this purpose of the height standard than an alternative design allowed by right which satisfies the height standard but is more visually dominant due to increased building size overall.

Purpose: To preserve light in adjacent residential zones.

Finding: Light Preservation

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north (west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that the purpose of the height limit for light preservation is to limit the area of shadow cast on surrounding residential properties. The comparative effect of the proposed larger west and north setbacks, versus a code compliant structure built closer to the setback line is clear.

The cross section drawings in Ex H7 compare the morning shadow cast by the proposal with adjustment to a shadow cast by a shorter building without a height adjustment. The comparison is seen on Drawings 1/A5.2, showing the morning shadow of the proposed Building 4, and 2/A5.5, showing the shadow of the code complaint alternative design. The morning shadow of the code compliant design is about ten feet up the side wall of the adjacent building; whereas the shadow line of the proposed Building 4 does not reach the building. The Committee finds these drawings are substantial evidence that the area covered by the morning shadow of the code compliant design substantially exceeds the area affected by the proposed Building 4.

The Committee reviewed Zoning Map Exhibit B regarding the environmental protection and conservation zones on Tax Lot 1500, the Metro topographic map Ex H20, and the aerial photo, and finds that the applicant's explanation of the likely site of any future house on the western portion of that parcel described above is reasonable and substantial. It reviewed appellants' submittals and testimony and finds that there is no substantial contrary evidence in the record on potential development of this tax lot, or on the light effect of Building 4 on that tax lot.

The Committee also reviewed the applicant's tree removal Ex H16, Landscape Plan Ex H15 and aerial photos of the dense vegetation existing along the west and north property boundaries in Ex H13. It finds that existing and proposed trees on the site and existing trees on the adjacent properties will cast more shadow and restrict more light on neighboring properties than the proposed Building 4.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to preserve light in adjacent residential zones.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not reduce shadows and preserve light in residential zones, it only controls height. The Committee finds that the proposed design balances the height adjustment and preserves more light by reducing building length, width and lot coverage, and thereby increasing their setbacks and reducing shadows.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of light preservation than the appellant's interpretation that precludes consideration of other building elements that affect light preservation such as setbacks, building length and lot coverage.

The Committee finds that the code complaint designs cast more shadow on neighboring residential zones because they are set closer to the property lines. The Committee finds that the applicant's comparison of the proposed design with adjustment to code compliant designs with potentially greater impacts on light restriction is the correct analytical method because it analyzes how the height adjusted building may actually reduce light impacts better than a code compliant design, which the Committee finds to be the most reasonable interpretation of this Code provision.

The shadow drawings in Ex H7 demonstrate that the adjusted Building 4 height equally or better maintains light than constructing a slightly shorter building much closer to the property boundary as allowed without adjustment because proximity to the property lines will cast more shadow than a slightly taller building set back further from the property line. The Committee therefore concludes the application equally or better meets the light related purpose of the setback compared to the code compliant structure.

Purpose: To preserve air in adjacent residential zones.

Finding: Air Preservation

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north (west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that whether the purpose of preserving air is met must be determined by comparing the volume of air restricted by the proposed Building 4 to the volume restricted by a code compliant structure, and that the purpose of preserving air is best served by the design which has a larger volume of air between the building and the property line. Specifically, this volume is measured between the building wall and a vertical plane extending upward from the adjacent property line.

The function of the height standard for preservation of air for adjacent residential zones is to limit the volume of air restricted between the building walls and the property line. The flow of air, unobstructed by building walls, is encouraged by the applicable height and setback provisions. To “equally or better” meet this purpose, an applicant must show by a preponderance of evidence that the volume of air between the property line and the proposed adjusted wall is no less than would be provided by a wall allowed without adjustment. The volume of the air for the applicant’s proposal is greater than the volume of the code compliant design. The Committee finds the site plan exhibits are substantial evidence that demonstrate that it is more likely than not that the applicant’s Building 4 design, with a 33 foot height, equally or better meets the air preservation purpose of the height standard. The alternative designs with a longer wall placed closer to the setback line restrict more air and will have greater adverse impact on preservation of air circulation than the adjusted proposal.

The Committee also weighed the appellants’ proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant’s contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to preserve air in adjacent residential zones.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not preserve air flow in adjacent residential zones, it only controls height. The Committee finds that the proposed design balances the height adjustment and preserves more air by reducing building length, width and lot coverage, and thereby increasing their setbacks and air flow for adjacent properties.

The Committee finds that nothing in the code precludes the applicant’s comparison, and concludes that this comparison allows a better assessment of air preservation than the appellant’s interpretation that precludes consideration of other building elements that affect air preservation such as setbacks, building length and lot coverage.

The Committee finds that the applicant’s comparison of the proposed Building 4 with the height adjustment to a code compliant design is the correct analytical method. The applicant’s proposal has a larger volume of air between the building and the property lines, whereas the code compliant designs have a smaller volume of air in that location. This comparison accounts for all the air volume between the building and the property lines which the Committee concludes is the most reasonable interpretation of this Code provision.

The Committee considered the arguments in letters submitted by Mr. Ellis and the Sylvan-Highlands Neighborhood Association, among others, which assert that (to quote Mr. Ellis) “The property owners and neighbors encircling this site have been and remain entitled to the benefit of the less intense development the regulations by their restrictive nature intentionally promote.”

The Committee finds the proposed design is less intensive because it substantially exceeds the south, west and north setbacks and thereby leaves a greater air volume between Building 4 and the west and north property lines than a code compliant design. The Committee also finds that appellants presented no contrary evidence in the record to demonstrate that air flow is more restricted by the proposed adjustment than it would be by a code compliant structure built at the minimum south, north and west setbacks.

The site plan exhibits demonstrate that it is more likely than not that the adjusted Building 4 restricts less air than a code compliant building allowed without adjustment, and therefore the Committee finds that the proposal equally or better meets the air preservation purpose of the height standard.

Purpose: To preserve the potential for privacy in adjacent residential zones.

Finding: Privacy Potential

This site is surrounded by adjacent but different residential zones, as shown on Zoning Map Ex B. To the east is R1, to the northeast is R20c, to the north (central) is R20p, to the north (west) is R20c, to the northwest is Washington County R25, and to the west is Washington County R-15.

The Committee finds that the proposed extra width for the east and north setbacks shown on Sheet A/1.1 of Ex H14 improve the potential for privacy by preserving existing landscape screen, and providing more space for additional planting.

The Committee also reviewed the Metro topographic map Ex H20, Zoning Map Exhibit B, and Section 33.430.140, and finds the applicant’s evidence and testimony regarding the higher elevation and sight lines of adjacent properties, setback distance between property lines and buildings, and landscape screening is credible and substantial.

The Committee reviewed the evidence presented by the appellants and notes those parties have not responded to the applicant’s evidence on the privacy benefits of the elevated grade of adjacent properties, extra width setbacks and landscape screening.

The Committee also weighed the appellants’ proposed interpretation of the Code that the impacts of a height adjustment must only be compared against the impacts of the same building with a code compliant height. The appellant insists that comparison of the adjustment against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant’s contrary argument that comparison of the adjustment against alternative designs that satisfy all code standards is the best method to preserve the potential for privacy in adjacent residential zones.

The Committee finds that controlling building height alone while approving more lot coverage, smaller setbacks and less tree preservation does not preserve privacy in adjacent residential zones, it only controls height. The Committee finds that the proposed design balances the height adjustment and better preserves the potential for privacy by reducing tree removal,

building length, width and lot coverage, and thereby increasing their setbacks and landscape screening.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of preservation of privacy than the appellant's interpretation that precludes consideration of other building and site elements that adversely impact privacy such as tree removal, setbacks, building length and lot coverage.

The Committee finds that there is no substantial evidence in the record to indicate the privacy of adjacent residential zones is more adversely affected by the slight Building 4 height adjustment than it would be by the Code Compliant Apartments Design or the Code Compliant Mixed Use Design which place apartments closer to the property lines, and remove substantial landscape screening.

The Committee therefore concludes that the adjusted design of Building 4 equally or better preserves options for privacy and therefore meets this purpose of the height standard.

Based on the information above, this criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: Based on the following information, the proposal is consistent with the classification of adjacent streets and the desired character of the area.

Street Classification

The Committee finds that the site is only adjacent to SW Canyon Court, which is classified as a Local Service Street in the Portland Transportation System Plan (TSP). Of particular importance is that PBOT responded to the Notice of Proposal with no concerns. PBOT did not indicate that the proposal is inconsistent with the classification of SW Canyon Court.

In considering the appellants' argument that the proposal is not consistent with the Local Service Street classification, the Committee reviewed the TSP Policy 6.5.E regarding Neighborhood Collectors, the next classification that appellants presumably believe ought to apply, and finds that classification as a Neighborhood Collector would not be consistent with the location and function of SW Canyon Court, because Canyon Court is geographically isolated and does not link neighborhoods like a collector street. The Committee also finds that appellants have presented no code authority, or testimony from PBOT or a traffic engineer that explains why the proposed application is contrary to the existing classification and concludes that substantial evidence shows the application is consistent with the classification of the adjacent SW Canyon Court.

Desired Character

Desired character is "the preferred and envisioned character (usually of an area) based on the purpose statement or character statement of the base zone, overlay zone, or plan district. It also includes the preferred and envisioned character based on any adopted area plans or design guidelines for an area." Section 33.910.030. The site is in the CN2 zone and the Skyline Subdistrict of the Northwest Hills Plan District.

The desired character of the subject area is defined by the purpose statement in the Portland Zoning Code for the CN2 zone and the purpose statement for the Northwest Hills Plan District,

which are described separately below. The site is outside the boundary of the Southwest Community Plan and the Sylvan-Highlands neighborhood does not have a neighborhood plan, so those are not relevant.

The Committee notes that appellants testified that the desired character of the area is low density single family residential use, and they challenged the application of the CN2 zoning to this site, which staff indicated was applied in 1990, when the site included five office buildings as shown in the 1990 aerial photo at Ex H13.

The Committee reviewed the historic and current aerial photos in Ex H13, and notes the longstanding presence of single family residential north of the site, along with mixed commercial, multifamily and institutional uses adjacent to the site on its east and west boundaries and extending along the freeway corridor. (See the annotated aerial photo which is Ex A-2 to Ex H17.) These uses include two large public water tanks, a school, a Tri-Met tunnel ventilation facility, many extremely tall retaining walls, office and retail properties, a gas station, an electric substation, and the earlier phases of Sylvan Highlands Apartments, all of which buffer the freeway from the lower density residential areas further north.

The Committee reviewed Zoning Map Ex B and finds that in addition to this CN2 zone, nearby parcels to the east are zoned R1, R2, CO1, CO2 and CG, indicating the increased intensity of development along the freeway corridor. The committee considered the appellants' testimony about this misapplication of the CN2 zoning some 25 years ago, and finds that it disregards the historic and current development patterns and the historic and current zoning of this freeway corridor. Therefore the committee concludes the appellant testimony does not accurately reflect the desired character of this freeway corridor area.

The Committee finds the evidence that this area has long been planned and developed for mixed uses, including multifamily housing, to serve as a buffer between the freeway and the single family development to the north, is credible and substantial. The committee therefore concludes that the proposed height adjustment for this multifamily project is consistent with the desired character of this area.

CN2 Purpose Statement

The Portland Zoning Code defines the characteristics of the CN2 zone as:

The Neighborhood Commercial 2 (CN2) zone is intended for small commercial sites and areas in or near less dense or developing residential neighborhoods. The emphasis of the zone is on uses which will provide services for the nearby residential areas, and on other uses which are small scale and have little impact. Uses are limited in intensity to promote their local orientation and to limit adverse impacts on nearby residential areas. Development is expected to be predominantly auto accommodating, except where the site is adjacent to a transit street or in a Pedestrian District. The development standards reflect that the site will generally be surrounded by more spread out residential development.

The first statement says the CN2 zone is intended for small commercial sites and areas in or near less dense or developing residential neighborhoods. This site is 3.6 acres in size so it is not small. However, it is near less dense or developing residential neighborhoods as many of the residential sites to the north and northeast are zoned for 10,000 square foot and 20,000 square foot lots, although many are also zone R7 which allow conventional single-dwelling development. The emphasis of the zone is to provide uses which will provide services for

nearby residential areas, including multi-dwelling residential opportunities. Multifamily uses are allowed by right and commercial uses are not required.

The character statement also emphasizes the CN2 zone is intended for uses that are small in scale and have little impact. This intention is implemented in the zoning code by development standards for lot coverage, setbacks, and the height standard under consideration in this application.

“Limited in intensity” is not defined in Title 33. Turning to the dictionary, Webster’s defines intensity as: “2. the magnitude of a quantity (and force or energy) per unit (as of surface, charge, mass, or time).” <http://www.merriam-webster.com/dictionary/intensity>. The quantities of lot coverage, building square feet, building height, surface parking spaces, and preserved trees are units that can be measured in the proposed and alternate plans, and analyzed to assess the intensity of both the proposed development and the code compliant designs. All of these factors should be considered to determine the intensity of a proposed development because a larger quantity of one factor may be offset by a small quantity of others.

Building 1

The scale of the proposal was discussed under Criterion A and is substantially less than allowed by right, as shown by the Code Compliant Apartment Design and Code Compliant Mixed Use Design. The minimum setback along SW Canyon Court is zero, yet Building 1 is set back 15 feet from the back of the sidewalk. The minimum side setback is met at the southeast corner of Building 1; at all other points on the east side of Building 1, the minimum setback is substantially exceeded. For the rear (north) setback, Building 1 exceeds the minimum by more than 6 times.

For the Alternative Code Compliant Apartment Design and the Code Compliant Mixed Use Design, the setbacks are reduced on all sides, which is much more dense and intensive. The square footage and lot coverage numbers are correspondingly more dense and intensive.

Building 2

The scale of Building 2 proposed by the adjustment is much smaller than allowed by right, as shown by the Code Compliant Apartments Design and the Code Compliant Mixed Use Design. The minimum setback along SW Canyon Court is zero, yet the Building 2 setback is about 80 feet from the back of the sidewalk. For the rear (north) setback, Building 2 exceeds the minimum by an average of 47 feet. And of course the east and west setbacks are also many times the required minimum.

For the alternate Code Compliant Apartment Design and the Code Compliant Mixed Use Design, the average setbacks are reduced to about 18 feet at the front, and 22 feet at the rear, which is much more dense and intensive. The square footage and lot coverage numbers are correspondingly more dense and intensive, with the building lot coverage rising from 32% to 47% and 51% for the alternate designs. See Ex H14.

Building 3

The scale of the proposed Building 3 is substantially less than allowed by right, as shown by the Code Compliant Apartments Design and the Code Compliant Mixed Use Design. The minimum setback along SW Canyon Court is zero, yet Building 3 is set back about 100 feet from the back of the sidewalk. The minimum north setback is met at the northwest corner of Building 3; at all other points on the north side of Building 3 the minimum setback is substantially exceeded.

For the alternative Code Compliant Apartments Design and the Code Compliant Mixed Use Design, the setbacks are reduced to 10 feet at the north, which is much more dense and intensive. The square footage and lot coverage numbers are correspondingly more dense and intensive.

Building 4

The overall scale of Building 4 is substantially less than allowed by right, as shown by the Code Compliant Apartments Design and the Code Compliant Mixed Use Design. The minimum setback along SW Canyon Court is zero, yet Building 4 is set back more than 100 feet from the back of the sidewalk. The minimum side street setback is met at the southwest corner of Building 4; at all other points on the west and north sides of Building 4 the minimum setback is substantially exceeded. See Sheet A/1.1 of Ex H14.

For the alternate Code Compliant Apartments Design and the Code Compliant Mixed Use Design, the setbacks are reduced, which is much more dense and intensive. The square footage and lot coverage numbers are correspondingly more dense and intensive.

In summary, the application proposes substantially smaller building footprints than allowed by code and these are set back much further than required. Comparison with the Code Compliant Apartment Design and the Code Compliant Mixed Use Design is illustrative.

In the Sylvan Highlands area, intensity of development directly impacts tree cover. For this application, existing trees will be preserved in many more areas around the proposed buildings, whereas the code compliant alternative designs remove many additional trees. See Sheets TS/3 and TS/4 of Ex H16.

The desired character of the CN2 zone is also auto accommodating. This application proposes to accommodate 79% of the parking underground, which limits the amount of impervious parking area. The proposed development is auto-accommodating in a site sensitive manner with most parking underground. The Committee finds the net effect is limited intensity development consistent with the purpose of the zone.

Northwest Hills Plan District

The Committee finds that two elements of the Northwest Hills Plan District purpose statement are relevant to this application in the Skyline Subdistrict: the protection of natural resources and orderly development of the subdistrict.

Regarding natural resources, the Committee finds the site is not within an environmental overlay zone and that none of the natural areas of the site are formally protected. Nevertheless, the adjustment application proposes only 32% lot coverage, which is less than half of what is allowed by right. The Committee reviewed the Tree Removal Plan exhibits and finds this application preserves many more trees and their functional values than is required, consistent with this purpose of the Northwest Hills Plan District and the desired character of the Skyline Subdistrict.

The Committee considered orderly development and finds the city bureau comments at Exhibits E 1-7 are substantial evidence of adequate service capacity. The Committee considered the appellants' concerns about traffic and finds that the proposed adjustment application will generate less traffic than code compliant alternative designs, as demonstrated by the applicant's trip generation memo of June 11, 2015 at Ex H4 and the traffic impact memo of Ex H13, which confirms the proposed development is consistent with this aspect of the desired character of the Skyline Subdistrict.

The Committee finds that, as described above, comparison of the proposed design against alternative code compliant designs is an appropriate method for measuring the impact of an adjustment. It further finds the proposed design has less square footage, fewer apartments and less commercial use than code compliant alternatives. Therefore, this proposal will demand less urban services overall, again consistent the desired character of the Skyline Subdistrict.

Based on the information above, this criterion is met.

- C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings:

Cumulative Effect

The Committee believes there is only one adjustment because the same standard is being adjusted for all four buildings.

Alternatively, even if the application is considered as four separate adjustments, the application satisfies the cumulative effect standard as described herein. The Committee finds that the cumulative effect of the adjustment to the height of four buildings must be measured against the intended purpose of this limited intensity, urban mixed use zone.

The Committee notes that appellants urge the Committee to measure the adjustment(s) by the alleged increased number of apartments and increased traffic. The Committee reviewed the evidence on this topic, including the traffic memos from the applicant's traffic consultant at Ex H4 and H13, and evidence of the Code Compliant Apartments Design and the Code Compliant Mixed Use Design. The Committee finds that each of these alternative designs present credible development plans that would generate larger neighborhood impacts because they are set closer to the minimum setback lines. This would require more tree removal and therefore decrease the potential for privacy vis á vis adjacent properties.

The Committee also finds that the code compliant designs increase the overall scale and intensity of the development with increased building square footage, increased building lot coverage, additional tree removal, increased numbers of apartments, the addition of substantial commercial square footage, and the increase in vehicle traffic that would accompany the added building space and uses.

The Committee finds the proposed design with height adjustments is balanced by the reduced lot coverage, the increased setbacks, the increased tree preservation, the reduced number of apartments and the lack of commercial uses, all of which combine to reduce impacts on adjacent residential properties in terms of light, air, privacy, and reduced traffic.

The Committee weighed the proposed design against alternate code compliant designs and finds the proposed design is less intense; therefore, it concludes the proposed design is still consistent with the overall purpose of the CN2 zone.

The Committee also weighed the appellants' proposed interpretation of the Code that the impacts of the height adjustments must only be compared against the impacts of the same buildings with a code compliant height. The appellant insists that comparison of the adjustments against other alternative building designs that satisfy all code standards is erroneous. The Committee also considered the applicant's contrary argument that

comparison of the adjustment against alternative designs that satisfy all code standards is the best method to measure the cumulative effect of the height adjustment to four buildings.

The Committee finds that controlling building height alone while approving more lot coverage, more vehicle trip generation, smaller setbacks and less tree preservation does not control the cumulative effect of the adjustments, it only controls height. The Committee finds that the proposed design balances the height adjustment and lessens the cumulative effect of the buildings by reducing their length, width and lot coverage, and thereby increasing their setbacks and tree preservation.

The Committee finds that nothing in the code precludes the applicant's comparison, and concludes that this comparison allows a better assessment of the cumulative effect of the buildings than the appellant's interpretation that precludes consideration of other elements of cumulative effect such as building length, lot coverage and vehicle trip generation.

D. City-designated scenic resources and historic resources are preserved; and

Findings: There are no designated scenic or historic resources, so this criterion is not applicable.

E. Any impacts resulting from the adjustment are mitigated to the extent practical.

Findings: Impacts resulting from the adjustment are mitigated to the extent practical. Means of mitigation are discussed separately for each building below.

Building 1

The Committee finds that the applicant's architectural plans at Ex H7. Landscape Plan Ex H15, and tree removal plan Sheet TS/2 of Ex H16 are credible evidence that impacts from the requested height adjustment such as increased density, reduced privacy and increased shadows are mitigated by the increased setbacks, mature landscape screening, reduced building height at the south end, a reduced footprint, underground parking and the topography.

Appellants do not specifically address the applicant's evidence. Rather, they argue the proposed Building 1 will generate more adverse impacts than if it was lowered to meet the height standard; however, that is not the criterion. The correct criterion is whether the impacts of the proposed design, with the adjustment, are mitigated to the extent practical. The Committee finds that the proposed application mitigates adverse impacts of additional height with the design elements described above, and concludes that it mitigates the potential adverse effects of the additional height to the extent practical.

Building 2

The Committee finds that the applicant's architectural plans at Ex H7. Landscape Plan Ex H15, and tree removal plan Sheet TS/2 of Ex H16 are credible evidence that impacts from the requested height adjustment such as increased density, reduced privacy and increased shadows are mitigated by the increased setbacks, mature landscape screening, reduced building height at the south end, a reduced footprint, the topography, and underground parking.

Appellants argue the proposed Building 2 will generate more adverse impacts than if it was lowered to meet the height standard; however, that is not the criterion. The correct criterion is whether the proposed design, with the adjustment, is mitigated to the extent practical. The Committee finds that the proposed application mitigates adverse impacts of additional height

with the design elements described above, and concludes that it mitigates the potential adverse effects of the additional height to the extent practical.

Building 3

The Committee finds that the applicant's architectural plans at Ex H7. Landscape Plan Ex H15, and tree removal plan Sheet TS/2 of Ex H16 are credible evidence that impacts from the requested height adjustment such as increased density, reduced privacy and increased shadows are mitigated by the increased setbacks, landscape screening, a reduced footprint, underground parking and the topography.

Appellants argue the proposed Building 3 will generate more adverse impacts than if it was lowered to meet the height standard; however, that is not the criterion. The correct criterion is whether the proposed design, with the adjustment, is mitigated to the extent practical. The Committee finds that the proposed application mitigates adverse impacts of additional height with the design elements described above, and concludes that it mitigates the potential adverse effects of the additional height to the extent practical.

Building 4

The Committee finds that the applicant's architectural plans at Ex H7. Landscape Plan Ex H15, and tree removal plan Sheet TS/2 of Ex H16 are credible evidence that impacts from the requested height adjustment such as increased density, reduced privacy and increased shadows are mitigated by the increased setbacks, mature landscape screening, reduced footprint, underground parking and the topography.

Appellants argue the proposed Building 4 will generate more adverse impacts than if it was lowered to meet the height standard; however, that is not the criterion. The correct criterion is whether the proposed design, with the adjustment, is mitigated to the extent practical. The Committee finds that the proposed application mitigates adverse impacts of additional height with the design elements described above, and concludes that it mitigates the potential adverse effects of the additional height to the extent practical.

Based on the information above, this criterion is met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.

Findings: The site is not in an environmental zone and this criterion is not applicable.

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.

ADJUSTMENT COMMITTEE DECISION

The Adjustment Committee denies the appeal, approves the requested height adjustment, and modifies the original findings and conditions of approval.

Approval of an Adjustment to Zoning Code Section 33.130.210 to allow four buildings to exceed the maximum 30-foot height limit. Building 1 is approved to be 45 feet in height. Building 2 is

approved to be 49.5 feet in height. Building 3 is approved to be 33 feet in height. Building 4 is approved to be 33 feet in height. The proposal is approved per the approved site plans, Exhibits C-1 through C-8, signed and April 27, 2015, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 14-241892 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The applicant shall preserve 45 percent of the existing trees on the site.
- C. The applicant shall preserve two-thirds of the trees 12" DBH and larger which are located within the east, north and west setback areas (which are 14 feet east and north of Building 1, 14 feet north of Building 2, 11 feet north of Building 3, and 11 feet north and west of Building 4).
- D. The applicant shall plant new trees as shown on the Landscape Plan, Ex H15, dated June 23, 2015.
- E. The applicant shall comply with Section 11.50.040 regarding tree preservation of trees 12" DBH and larger.

Staff Planner: Matt Wickstrom

Date of Adjustment Committee Decision:
(Hearing Date) August 18, 2015

By: 
Adjustment Committee
Chair person name: Roger Alfred

Date Final Decision Effective/Mailed: August 25, 2015
120th day date: August 28, 2015

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on November 24, 2014, and was determined to be complete on **February 17, 2015**.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on November 24, 2014.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended 14 days. Unless further extended by the applicant, **the 120 days will expire on: August 28, 2015.**

Appeal of this Decision. This decision is final and becomes effective the day the notice of decision is mailed (noted above). This decision may not be appealed to City Council; however, it may be challenged by filing a "Notice of Intent to Appeal" with the State Land Use Board of Appeals (LUBA) within 21 days of the date the decision is mailed, pursuant to ORS 197.0 and 197.830. A fee is required, and the issue being appealed must have been raised by the close of the record and with sufficient specificity to afford the review body an opportunity to respond to the issue. For further information, contact LUBA at 775 Summer St NE, Suite 330, Salem, OR 97301-1283. [Telephone: (503)373-1265]

Recording the Final Decision.

If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder. A building or zoning permit will be issued only after the final decision is recorded. The final decision may be recorded on or after August 25, 2015.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in a separate mailing) and the final Land Use Review Decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, PO Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review Decision with a check made payable to the Multnomah Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

For further information on your recording documents, please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. This decision expires three years from the date the Final Decision is rendered unless:

- A building permit has been issued, or
- The approved activity has begun, or
- In situations involving only the creation of lots, and the land decision has been recorded.

Applying for permits. A building permit, occupancy permit, or development permit must be obtained before carrying out this project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed here.
- All applicable development standards, unless specifically exempted as part of this land use review.
- All requirements of the building code.
- 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

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

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- A. Applicant's Statement and Original LU Application
 - 1. Revised drawings and landscape plan submitted January 26, 2015
 - 2. Revised drawings submitted February 3, 2015
 - 3. Email from Scott Reiter to Matt Wickstrom regarding West Sylvan School closure dated March 12, 2015
 - 4. Email from Scott Reiter to Matt Wickstrom requesting decision delay dated March 19, 2015
 - 5. Email from Scott Reiter to Matt Wickstrom requesting decision delay dated March 20, 2015
 - 6. Email from Scott Reiter to Matt Wickstrom including two memorandums and transit information dated March 27, 2015
 - 7. Email from Scott Reiter to Matt Wickstrom including alternate site plan dated March 27, 2015
 - 8. Revised drawings submitted March 31, 2015
 - 9. Email from Scott Reiter to Matt Wickstrom including shadowed elevation drawings dated April 1, 2015
 - 10. Email from Scott Reiter to Matt Wickstrom including topography map dated April 21, 2015
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Alternate Site Plan (attached)
 - 3. Landscape Plan (attached)
 - 4. Site Sections and Elevation Comparison with Adjacent Lots (attached)
 - 5. Building 2 Elevations (attached)
 - 6. Buildings 1 and 2 Side Elevations (attached)
 - 7. Building 4 Elevations (attached)
 - 8. Buildings 3 and 4 Elevations (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Water Bureau
 - 3. Fire Bureau
 - 4. Life Safety section of the Bureau of Development Services (BDS)

5. Site Development section of BDS
6. Summary sheet of Bureau responses
7. Bureau of Environmental Services addendum
- F. Correspondence: 24 letters
 1. Dave Malcolm, Sylvan-Highlands Neighborhood Association, March 12, 2015, opposition
 2. Britta Bavaresco, March 11, 2015, opposition
 3. Linda and Todd Jessell, March 3, 2015, opposition
 4. Jeffrey Brown, February 23, 2015, opposition
 5. Dan Root, March 1, 2015, opposition
 6. Eric Lind, March 11, 2015, opposition
 7. Peter Belluschi, March 11, 2015, opposition
 8. Jill Kilpatrick Souede, March 12, 2105, opposition
 9. John Rush and Alicia Ahn, March 10, 2015, opposition
 10. Frank Brown, March 11, 2015, opposition
 11. Sherman and Jayn Kellar, March 10, 2015, opposition
 12. John Braestrup, March 13, 2015, opposition
 13. Chuck Weiss, March 13, 2015, opposition
 14. Wendy, Lucie and Eric Molinar, March 13, 2015, opposition
 15. Maxine Thomas, March 13, 2015, opposition
 16. Carolyn D. and John R. Loacker, March 13, 2015, opposition
 17. E. Baer, March 13, 2015, opposition
 18. Justin Fletcher, March 13, 2015, opposition
 19. Todd Husband, March 13, 2015, opposition
 20. Brian Hutt, March 13, 2015, opposition
 21. Gary Oxley, March 13, 2015, opposition
 22. Diana J. Sorenson, March 13, 2015, opposition
 23. Scott Weinstien, March 13, 2015, opposition
 24. T. Beau Ellis, Vial Fotherinham Lawyers, March 13, 2015, proposal should be denied
- H. Appeal
 1. Appeal Submittal, Sylvan Highlands NA
 2. Appeal Submittal, Roundhill Service Association No. 2
 3. Appealed Decision
 4. Notice of Appeal
 - a. Appeal Mail List
| (Received before hearing)
 5. Picture Exhibits (June 9, 2015)
 6. Revised A Tree Exhibits (June 9, 2015)
 7. Revised A Exhibits (June 9, 2015)
 8. Topography Survey Exhibit (June 9, 2015)
 9. L1 Exhibit (June 9, 2015)
 10. TS1 Exhibit (June 9, 2015)
(Received after Hearing by 4:30 PM June 23, 2015)
 11. T. Ramis Letter
 12. T Ramis Letter to Linly Rees
 13. Max Technical Memo
 14. Sylvan Hightlands Phase II Drawings
 15. C. Freshley Confir Tree Landscape Plan
 16. J. Ramis Tree Plan
 17. T. Clarey Letter & Exyhibits A-F2
 18. S. Reiter Letter
 19. Letter from Tim Ramis to Matt Wickstrom asking to extend 120-day deadline by sixty days
(June 17, 2015)
(Received After Hearing by 4:30 PM June 30, 2015)
 20. T. Beau Ellis Response Letter dated June 29, 2015
 21. Metro Map – Topography

22. Aerial Photo

(Received After June 30, 2015)

23. Email from Joseph Schaefer to Matt Wickstrom asking to extend 120-day decision deadline by 2 weeks dated July 31, 2015

(Additional Exhibits)

24. Area map provided to staff at June 16, 2015 hearing

25. Email from Linda and Todd Jessell dated June 12, 2015

26. Email and letter from Robert Evenson dated June 10, 2015

27. Letter from John Rush and Alicia Ahn dated June 12, 2015

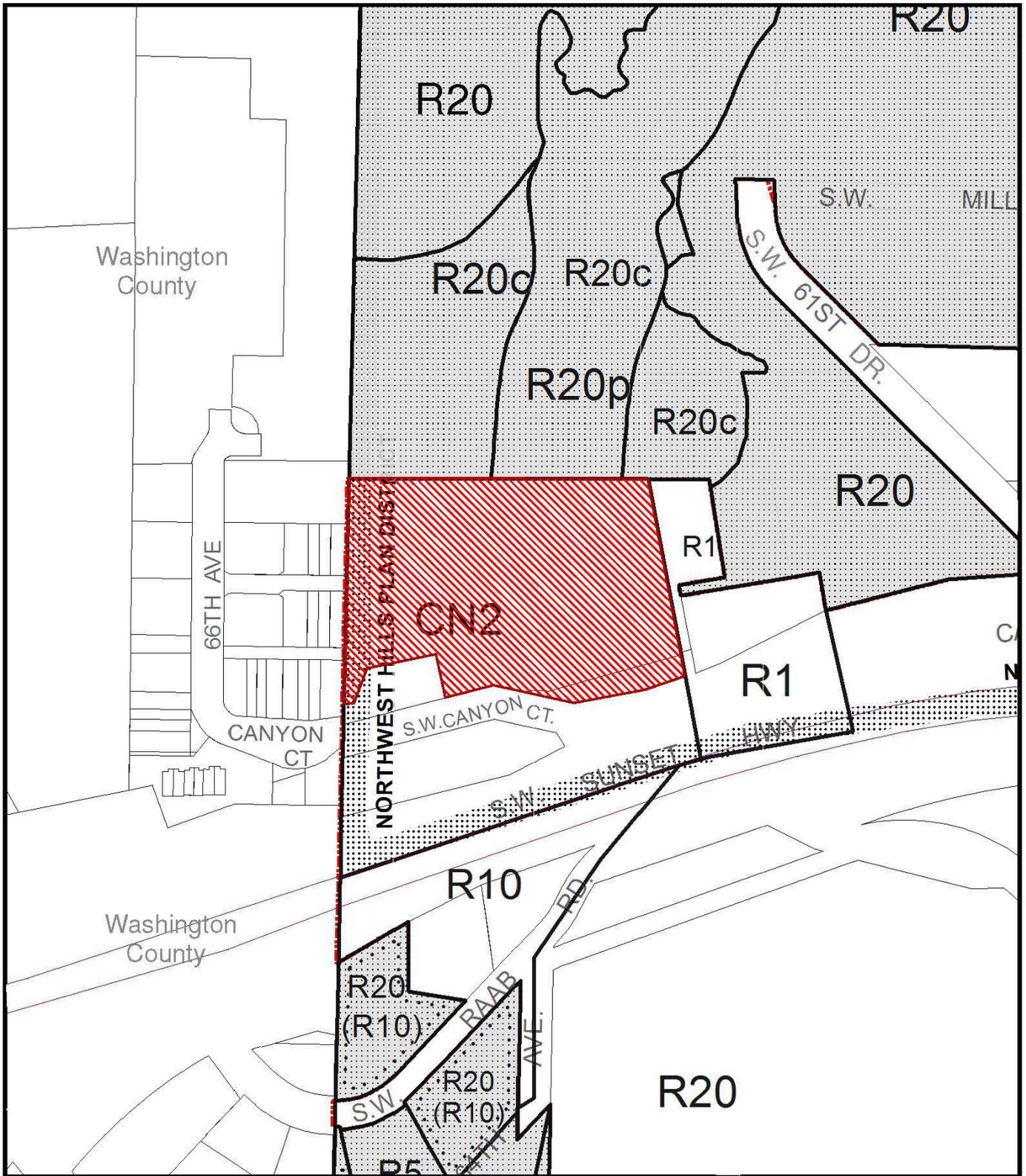
28. Email and written testimony from T. Beau Ellis dated June 15, 2015

29. Written testimony from Kerry Goldstein, dated June 16, 2015

30. Full sized plans dated November 24, 2015

31. Full sized plans dated January 14, 2015

32. Full sized plans dated March 30, 2015



ZONING

-  Site
-  Unincorporated Pockets
-  City of Portland Boundary



This site lies within the:
NORTHWEST HILLS PLAN DISTRICT
SKYLINE SUBDISTRICT

File No. LU 14-241892 AD
 1/4 Section 3223
 Scale 1 inch = 200 feet
 State_Id 1S1E06CB 1600
 Exhibit B (Nov 26, 2014)

	RDC Renter Design Group Architects Inc. 205 SW Clark Drive, Beaverton, Oregon 97008 (503) 521-2026	6400 SW CANYON COURT, PORTLAND, OREGON 97221 SYLVAN HIGHLANDS PHASE III	1200 SW 46TH AVENUE, SUITE 300, PORTLAND, OREGON 97225 SYLVAN OFFICE PARK, LLC	SHEET NO. 119 DATE: 04/27/19 DRAWN BY: J. DICK CHECKED BY: J. DICK
	CONCEPTUAL SITE PLAN			A 1.0



Approved
 City of Portland - Bureau of Development Services
 Planner Wickstrom Date 4-27-19
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

ADJUSTMENT
 ADJUSTMENT
 0000015



CONCEPTUAL SITE PLAN
 11/20/19

Proposed Adjustment to increase **Maximum** allowed height for four apartment buildings with 244 dwelling units.

Exhibit C-1

10-foot wide sanitary sewer easement.



<p>REGISTERED ARCHITECT STATE OF OREGON No. 1258 GEORGE T. RYAN</p>	<p>RDC RETEK DESIGN GROUP ARCHITECTS INC. 2585 SW COLUMBIAN BLVD. SUITE 200 PORTLAND, OREGON 97205</p>	<p>OWNER SYLVAN OFFICE PARK, LLC 1300 SW 64TH AVENUE, SUITE 300 PORTLAND, OREGON 97225</p>	<p>CONCEPTUAL SITE PLAN</p>
<p>6400 SW CANYON COURT PORTLAND, OREGON 97221 SYLVAN HIGHLANDS PHASE III</p>			<p>DATE: 10/27/15 DRAWN BY: J. WILKSTROM CHECKED BY: J. WILKSTROM SCALE: AS SHOWN</p>

Approved*
 City of Portland - Bureau of Development Services
 Planner **Wilkstrom** Date **4-27-15**
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

CONCEPTUAL SITE PLAN
 APPLICATION
 01-14115

location of 10-foot wide sanitary sewer easement.

Exhibit C-2

LANDSCAPE CALCULATIONS

1. Proposed Planting: 10,517 sq ft of 2,000 sq ft canopy landscape area required.
 2. Existing Planting: 10,517 sq ft of 2,000 sq ft canopy landscape area required.
 3. Proposed Planting: 10,517 sq ft of 2,000 sq ft canopy landscape area required.
 4. Existing Planting: 10,517 sq ft of 2,000 sq ft canopy landscape area required.

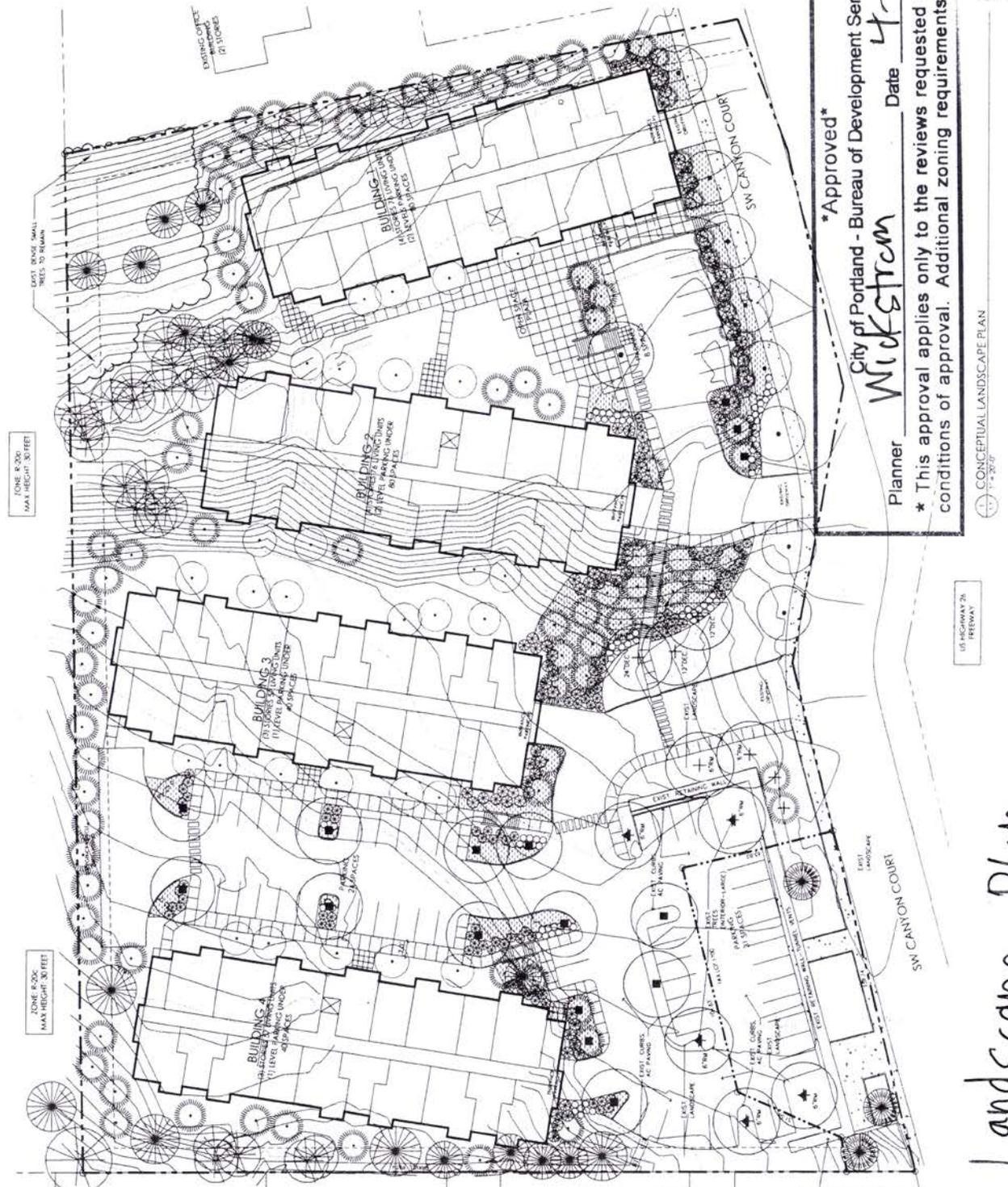
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CHRISTOPHER FRESHLEY LANDSCAPE ARCHITECT

1000 SW 45TH AVENUE SUITE 300 PORTLAND, OREGON 97223

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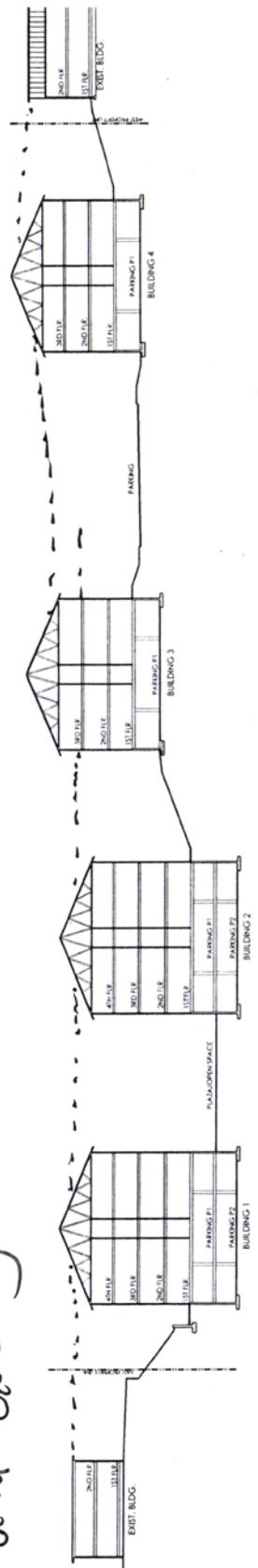
Approved
 City of Portland - Bureau of Development Services
 Planner: Wickstrom Date: 4-27-15
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

CONCEPTUAL LANDSCAPE PLAN
 4-27-2015

Landscape Plan

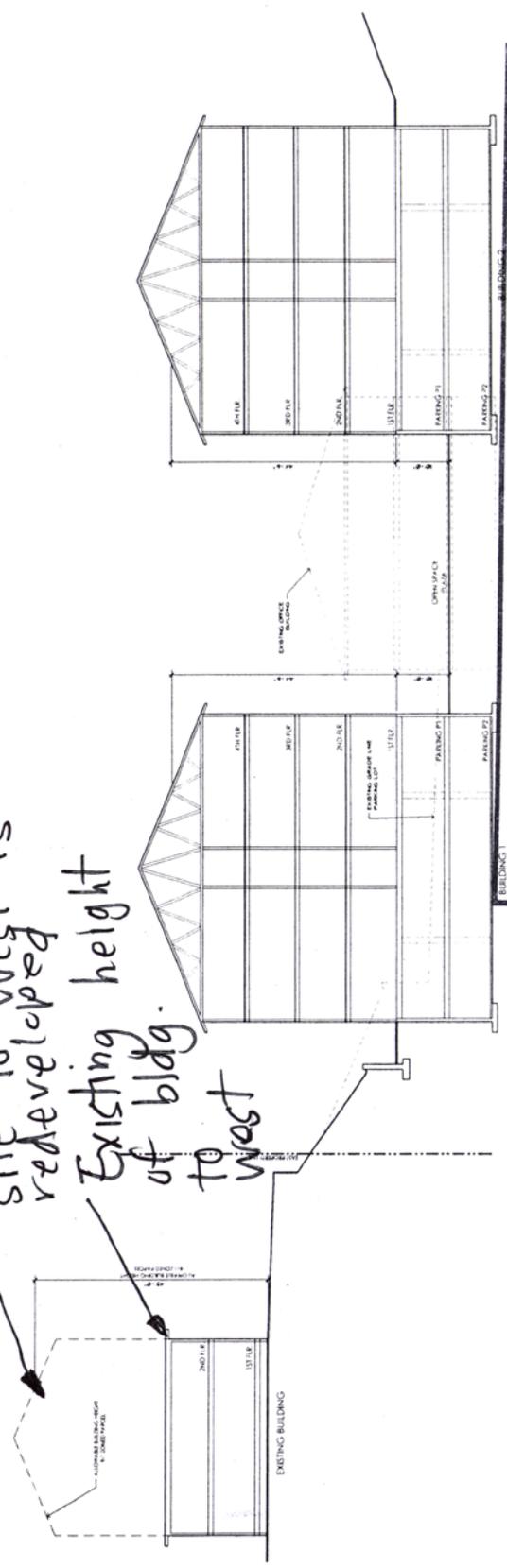
Exhibit C-3

Roughly comparable top elevations of proposed development and existing development to east and west



7 OVERALL SITE SECTION
1/16" = 1'-0"

Potential height if site to west is redeveloped
Existing height of bldg. to west



8 SITE SECTION AT BUILDINGS 1 AND 2
1/4" = 1'-0"

* Approved*
 City of Portland - Bureau of Development Services
 Planner Wickett Date 4-27-15
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

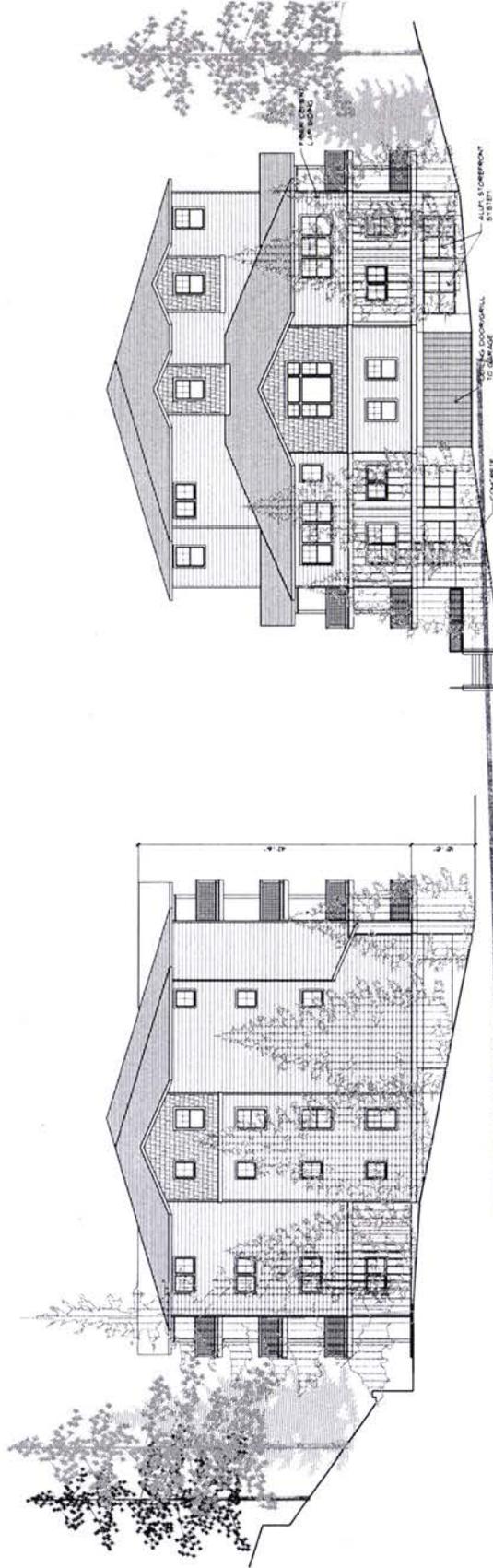
ARCHITECT: RDC GROUP 1000 NE 10TH AVE, SUITE 200 PORTLAND, OREGON 97232		ENGINEER: RDC GROUP 1000 NE 10TH AVE, SUITE 200 PORTLAND, OREGON 97232	
ARCHITECT: RDC GROUP 1000 NE 10TH AVE, SUITE 200 PORTLAND, OREGON 97232		ARCHITECT: RDC GROUP 1000 NE 10TH AVE, SUITE 200 PORTLAND, OREGON 97232	
ARCHITECT: RDC GROUP 1000 NE 10TH AVE, SUITE 200 PORTLAND, OREGON 97232		ARCHITECT: RDC GROUP 1000 NE 10TH AVE, SUITE 200 PORTLAND, OREGON 97232	
ARCHITECT: RDC GROUP 1000 NE 10TH AVE, SUITE 200 PORTLAND, OREGON 97232		ARCHITECT: RDC GROUP 1000 NE 10TH AVE, SUITE 200 PORTLAND, OREGON 97232	

Exhibit C-4

	RDC RUTHERFORD DESIGN GROUP ARCHITECTS INC. 2585 SW CALEB STREET, PORTLAND, OREGON 97208-1503 (503) 571-3036	6400 SW CANYON COURT PORTLAND, OREGON 97221 SYLVAN OFFICE PARK, LLC 1200 SW 64TH AVENUE, SUITE 300 PORTLAND, OREGON 97225	DATE: JANUARY 14, 2013 DRAWN:	SHEET: 5A1 OF: 12
			BUILDING 1, BUILDING 2 NORTH, SOUTH EXTERIOR ELEVATIONS	

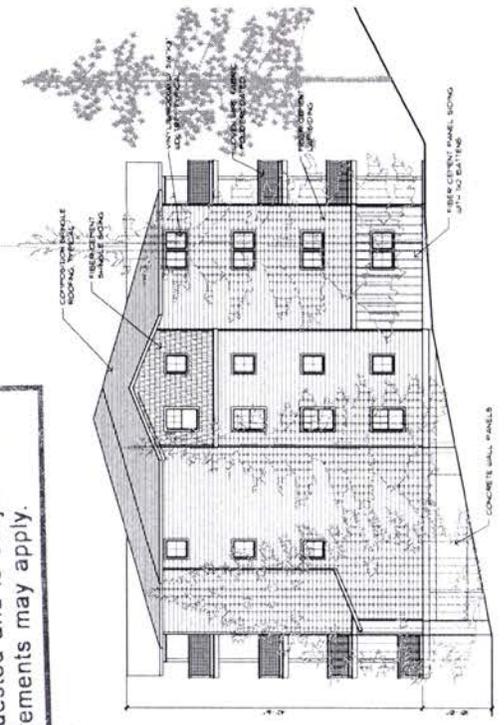
A
7.2

CONSTRUCTION APPLICATION 03/03/13



1.1 BUILDING 1 - NORTH ELEVATION (1/8" = 1'-0") WINDOW AREA = 443 SF

* Approved*
 City of Portland - Bureau of Development Services
 Wickstrom
 Planner
 Date 4-27-15
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



1.2 BUILDING 2 - NORTH ELEVATION (1/8" = 1'-0") WINDOW AREA = 443 SF

Off-set entrance to Building 2 parking structure

Exhibit C-6

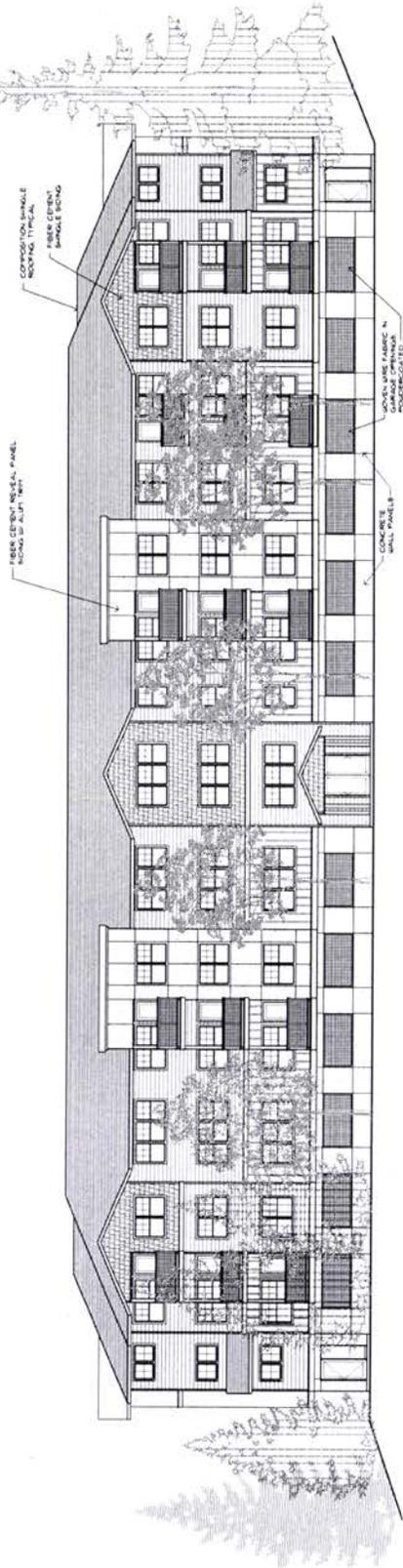
Approved

City of Portland - Bureau of Development Services

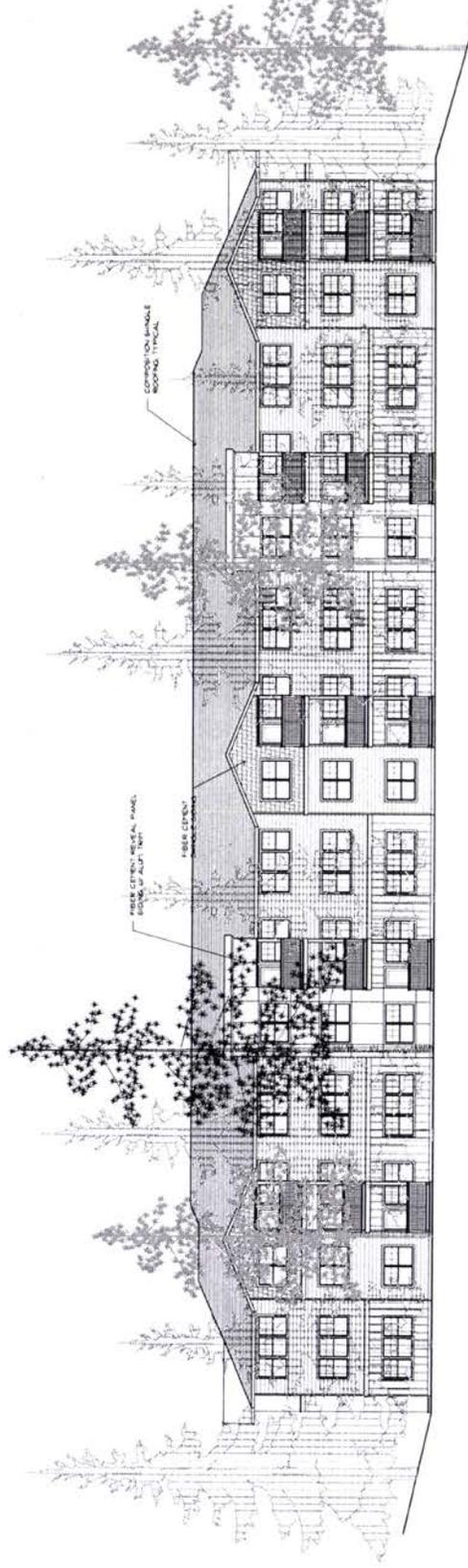
Planner *Wicketson*

Date *4-27-15*

* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



1. BUILDING 4 - EAST ELEVATION
1/8" = 1'-0"



2. BUILDING 4 - WEST ELEVATION
1/8" = 1'-0"

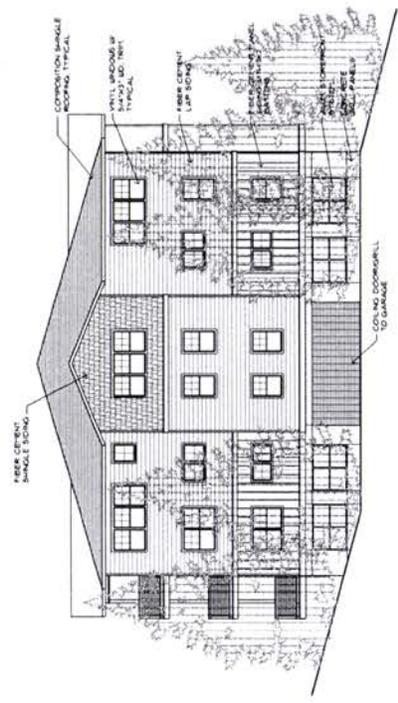
ADJUSTMENT
APPROVAL
03.30.15

	RDC Architects Inc. Rutter Puckey Coeur	6400 SW CANYON COURT PORTLAND, OREGON 97221 1200 SW 46TH AVENUE, SUITE 300 PORTLAND, OREGON 97225	OWNER: SYLVAN OFFICE PARK, LLC 1200 SW 46TH AVENUE, SUITE 300 PORTLAND, OREGON 97225	SHEET NO.: 7.6 DATE: 04/27/15 DRAWN BY: [blank] CHECKED BY: [blank]
	SYLVAN HIGHLANDS PHASE III EAST, WEST EXTERIOR ELEVATIONS			BUILDING 4

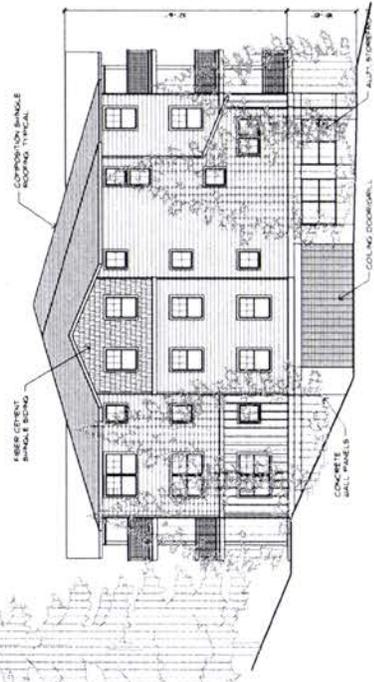
Exhibit C-7

Approved
 City of Portland - Bureau of Development Services
 Planner *Wickstrom* Date *4-27-15*
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

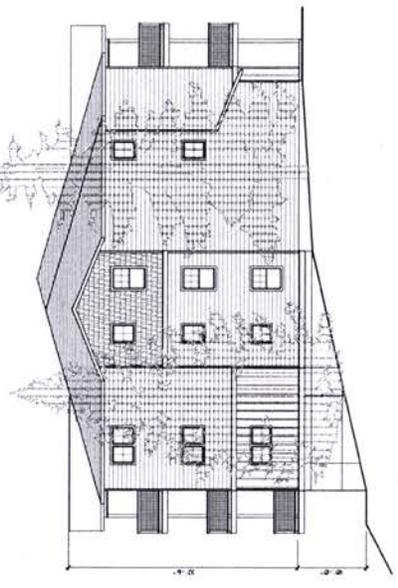
	RDC Robert Design Group Architects, Inc. 7265 SW CHARTER PARKWAY, OREGON 97008-5714-5096	SYLVAN HIGHLANDS PHASE III 6400 SW CANYON COURT, PORTLAND, OREGON 97221 SYLVAN OFFICE PARK, LLC 1200 SW 64TH AVENUE, SUITE 300, PORTLAND, OREGON 97225	BUILDING 3 BUILDING 4 NORTH, SOUTH EXTERIOR ELEVATIONS <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">DATE</td> <td>12/14/14</td> </tr> <tr> <td>BY</td> <td>WJ</td> </tr> <tr> <td>CHECKED</td> <td>AK/ML</td> </tr> <tr> <td>DATE</td> <td>04/27/15</td> </tr> <tr> <td>PROJECT</td> <td></td> </tr> </table>	DATE	12/14/14	BY	WJ	CHECKED	AK/ML	DATE	04/27/15	PROJECT	
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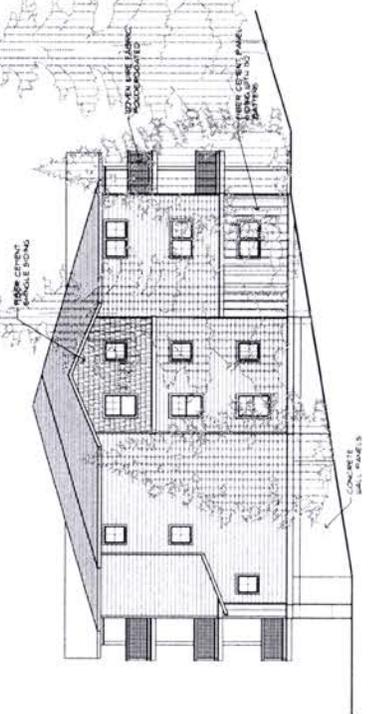
1.3 BUILDING 3 - SOUTH ELEVATION (STREET FACING FACADE)
 SHEET AREA: 442.5 SF
 1/8" = 1'-0"



1.3 BUILDING 4 - SOUTH ELEVATION (STREET FACING FACADE)
 SHEET AREA: 443.5 SF
 1/8" = 1'-0"



1.3 BUILDING 3 - NORTH ELEVATION
 1/8" = 1'-0"



1.3 BUILDING 4 - NORTH ELEVATION
 1/8" = 1'-0"

ADJUSTMENT
 APPROVAL FOR
 03/30/15

Exhibit C-8