Portland City Auditor
Hearings Office
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DECISION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File Number: LU 18-283588 LDS AD (Hearings Office 4190005)

Applicant: Sarah Radelet
Strata Land Use Planning
PO Box 90833
Portland, OR 97290

Property Owner: Cairn Pacific Properties 7 LLC
1015 NW 11th Avenue #242
Portland, OR 97209

Developer: Noel Johnson
Royal Oak Homes LLC
9400 SW Beaverton Hillsdale Hwy. #131
Beaverton, OR 97005

Hearings Officer: Gregory J. Frank

Bureau of Development Services (BDS) Staff Representative: Sean Williams

Site Address: 2135 S/NW 29th Avenue

Legal Description: BLOCK 10 LOT 3,4,5,8,9,12, WILLAMETTE HTS ADD

Tax Account Number: R913401370

State ID Number: 1N1E29DB 03900

Quarter Section: 2826

Neighborhood: Northwest District

Business District: None

District Neighborhood Coalition: Neighbors West/Northwest

Plan District: None

Zoning: Residential 1,000 (R1)

Land Use Review: Type III, Land Division Subdivision (LDS) with Adjustment (AD)

BDS Staff Recommendation to Hearings Officer: Denial, then changed to Approval with Conditions.

Public Hearing: The hearing was opened at 9:03 a.m. on April 1, 2019, in the third floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and was closed at 10:57 a.m. The record was held open until 4:00 p.m. on July 1, 2019 for new evidence; until 4:00 p.m. on July 8, 2019 for rebuttal to new evidence; and until 4:00 p.m. on July 15, 2019 for Applicant's rebuttal.

Testified at the Hearing:
Sean Williams
Sarah Radelet
Julia Kuhn
Jeff Shoemaker
Richard Potestio
Noel Johnson
Renee France
Caitlin Ranson
David Petersen

Proposal: Applicant proposed to subdivide the real property described above (the "Subject Property") into 14 lots, ranging in size from 1,480 to 1,942.5 square feet, for attached houses. Applicant proposed a private alley tract that will provide rear-loaded access to parking/garages for each lot. An Adjustment is requested to the maximum building length from 100-feet to 160-feet for Lots 1-8 and to 120-feet for Lots 9-14.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of the *Portland City Code ("PCC") Title 33*. The relevant criteria are found in:

- **PCC 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**
- **PCC 33.805.040.A-F, Approval Criteria for Adjustments**

II. ANALYSIS

Site and Vicinity: The Subject Property is located on NW Wilson Street between NW 29th and NW 30th Avenues approximately 200-feet south of NW Nicolai Street. The Subject Property is approximately 30,000 square feet in size and is only developed with an awning that was once

associated with a former metal fabrication business adjacent to the north. The topography of the Subject Property slopes gently downward to the north with a grade difference of approximately 6-feet from NW Wilson Street to the rear property line. There are no trees on the Subject Property.

The surrounding vicinity contains a mix of zoning, development, and uses. Prime industrial land and uses are located north of NW Nicolai Street. Employment zoning (EX, EG1/EG2) is adjacent to the north and east with Montgomery Park being within approximately 200-feet. Multi and single dwelling zoning and development is located to the south and west of the Subject Property. Forest Park is close in proximity with the nearest trail being the Lower Macleay at NW Vaughn Street.

Infrastructure:

- **Streets** – The Subject Property has approximately 300-feet of frontage on NW Wilson Street and 100-feet of frontage on both NW 29th and 30th Avenues. At this location, NW Wilson Street, NW 29th, and NW 30th Avenues are classified Local Service Streets for all modes in the Transportation System Plan (TSP). TriMet provides frequent transit service approximately 150-feet east of the Subject Property on NW Wardway Avenue and NW Vaughn Street via Bus routes #15 and #77.

  At this location, NW Wilson Street is improved with a 30-foot paved roadway surface within a 60-foot wide right-of-way (ROW). The Subject Property's NW 30th Avenue frontage contains a partial gravel roadway within a 60-foot wide ROW. There are no curbs or sidewalks along either of these street frontages. The Subject Property's NW 29th Avenue frontage is improved with a variable width planter, 6-foot sidewalk, and 2-foot setback to private property within a 60-foot wide ROW. Note, a diverter is present in NW 29th Avenue at the intersection with NW Wilson Street.

- **Water Service** – There is an existing 8-inch DI water main in NW Wilson Street.

- **Sanitary Service** - According to available GIS data, the following sewer infrastructure is located in the vicinity of the Subject Property: there is a 24-inch public CIPP combination sewer in NW 30th Avenue (As-Built #E09121). The sewer continues east as a 36-inch line on the north side of NW Nicolai (As-Built #E05510); there is an 18-inch public RCP combination sewer in NW 29th Avenue (As-Built #E08962); there are abandoned mains in NW 30th Avenue, vacated NW Roosevelt, and NW 29th Avenue. Applicant has been informed about these existing lines due to potential conflicts in the ROW; there is no sewer service in NW Wilson.

- **Stormwater Disposal** – According to available GIS data, the following stormwater infrastructure is located in the vicinity of the Subject Property: there is a storm-only sewer in NW 30th (Bureau of Environmental Services [BES] as-built #2968). The storm line is at

capacity and can flow as a pressurized line during high flow events. No connections are allowed to this sewer.

Zoning: The R1 designation is one of the City's multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

Land Use History: City records indicate there are no prior land use reviews for the Subject Property.

Agency Review: Several bureaus responded to this proposal and relevant comments are addressed under the applicable approval criteria. The E Exhibits contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 7, 2019. Responses were received from the Neighborhood Association (Exhibit F.1) and the contract seller (Exhibit F.2) in support of the proposal. Additional comments were received, into the record, through hearing testimony and record submissions.

ZONING CODE APPROVAL CRITERIA

PRELIMINARY HEARINGS OFFICER FINDINGS:
A hearing in this case was held on April 1, 2019 (the "Hearing"). Sarah Radelet ("Radelet") appeared at the Hearing and requested the record for this case be held open for the submission of new evidence until July 1, 2019, for the submission of responsive evidence until July 8, 2019, and until July 15, 2019 for Applicant's final argument/rebuttal (the "open-record period"). The Hearings Officer granted Radelet's request for the timing of the open-record period.

David Petersen ("Petersen"), on behalf of the Northwest Industrial Business Association ("NIBA"), testified at the Hearing and also submitted two documents (Exhibits H.5 and H.13). Peterson, in Exhibit H.5 stated the following:

> *"NIBA and its members ask that the importance of the Guild's Lake Industrial Sanctuary, and its sensitivity to new, incompatible land uses nearby, be given due consideration when considering residential projects such as this one that are so close to the Sanctuary boundaries. At a minimum, NIBA recommends that any residential development (such as this one) that is located within the two-block buffer be subject to a condition of approval requiring that a covenant be recorded against the property disclosing nearby industrial uses and waiving the right to assert that normal industrial use of nearby property constitutes a nuisance or other interference with residential use."*

Petersen, in Exhibit H.13, stated the following:

> *"NIBA's comments on this application focus on protection of the Guild's Lake Industrial Sanctuary District, given that this proposed project violates the two-block buffer from the Sanctuary District recommended by the Guild's Lake Industrial Sanctuary Plan."*

Renee France ("France"), on behalf of the Applicant, submitted a response to the Petersen comments quoted above (Exhibit H.15). France, in Exhibit H.15, stated:

> *"There is no industrial zoning adjacent to the subdivision site. There is also no requirement under the Portland City Code that requires a property owner subdividing residential land to provide the notice requested by NIBA; particularly here where the adjacent land is either zoned residential or mixed use, central employment."*

The Hearings Officer notes that Petersen provided no specific citation to a section or sections of the Guild's Lake Industrial Sanctuary Plan District (the "District Plan") or the Guild's Lake Industrial Sanctuary Plan (the "Sanctuary Plan"). The Hearings Officer independently conducted a brief review of both the District Plan and the Sanctuary Plan. In summary, the Hearings Officer characterizes the Sanctuary Plan as aspirational in nature and the District Plan as setting forth legal mandates related to the Guild's Lake industrial area. The Hearings Officer takes specific note of the District Plan section PCC 33.531.020 which states:

> *"The regulations of this chapter apply to sites in the Build's Lake Industrial Sanctuary plan district. The boundaries of the plan district are shown on Map 531-1 at the end of this chapter, and on the Official Zoning Maps. The boundaries of the subdistricts are also shown on Map 531-1." [subdistrict map is identified as Map 531-2]*

The Hearings Officer's review of Maps 531-1 and 531-2 indicated that the Subject Property is not located within the Guild's Lake Industrial Sanctuary District. The Hearings Officer finds the regulations/requirements set forth in the Guild's Lake Industrial Sanctuary District (PCC 33.531) do not apply to the Subject Property. The Hearings Officer was unable to find, within PCC 33.531, any reference to a "two-block buffer."

The Hearings Officer finds the NIBA request (via Exhibits H.3 and H.13) is not legally persuasive. The Hearings Officer shall not require a condition of approval as requested by NIBA in Exhibits H.3 and H.13.

The Hearings Officer notes that Applicant (Exhibit H.15) offered to provide buyers of lots, if this application were to be approved, a letter generally related to the nearby industrial zoning in the Guild's Lake area. The Hearings Officer finds that requiring such language, through a condition of approval, is not supported by any relevant section of the PCC. The Hearings Officer finds that

including a condition of approval, as requested by NIBA, would be inappropriate in a land use approval decision.

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES
PCC 33.660.120 The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.

Due to the specific location of the Subject Property and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the criteria that are not applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
B	PCC 33.630 – Tree Preservation	No trees are located fully or partially on the Subject Property.
C	PCC 33.631 - Flood Hazard Area	The Subject Property is not within the flood hazard area.
D	PCC 33.632 - Potential Landslide Hazard Area	The Subject Property is not within the potential landslide hazard area.
E	PCC 33.633 - Phased Land Division or Staged Final Plat	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	PCC 33.634 - Recreation Area	Not applicable. The proposed density is less than 40 units.
I	PCC 33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
J	PCC 33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the Subject Property.
L	PCC 33.654.110.B.2 - Dead end streets	No dead-end streets are proposed.
	PCC 33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	PCC 33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required
	PCC 33.654.120.D - Common Greens	No common greens are proposed or required
	PCC 33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	PCC 33.654.120.G - Shared Courts	No shared courts are proposed or required

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
	PCC 33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the Subject Property.
	PCC 33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	PCC 33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.
	PCC 33.655 - School District Enrollment Capacity	The proposal is for less than 11 lots or is not in the David Douglas School District.

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: PCC 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. Applicant proposed 14 lots for attached houses. Single-dwelling or duplex development is proposed for some or all of the Subject Property; therefore, Applicant must demonstrate how the proposed lots meet the minimum density and not exceed the maximum density stated in Table 120-3 at the time of the preliminary plan review.

This Subject Property is in the R1 zone and attached houses are proposed to be accessed by an alley. Therefore, the minimum density is one unit per 2,000 square feet (PCC 33.120.270.E.2). The maximum allowed density in the R1 zone is one unit per 1,000 square feet. The total Subject Property site area shown on Applicant's survey is 30,000 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. Street dedications are required that total 448.5 square feet, which will result in a lot size of 29,551.5 square feet for the purpose of calculating density. Therefore, the Subject Property has a minimum required density of 15 units and a maximum allowed density of 30 units. In order to meet the minimum required density of 15 units, Applicant proposed to construct an Accessory Dwelling Unit (ADU) on Lot 1 (PCC 33.205.050).

Typically, minimum and maximum density are conditioned as there is no minimum lot area requirement for attached houses, detached houses, or duplexes. However, none of the proposed lots will meet the minimum width for detached houses of 25-feet. Therefore, maximum density will be restricted to Applicant's proposal of 14 units for attached single-dwelling development.

ADUs do not count toward maximum density and may be added to any attached house (PCC 33.205.050).

The lot dimensions required and proposed are shown in the following table:

R1	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Attached Houses	none	15	none	15
Lot 1	1,702	23	74	23
Lot 2	1,480	20	74	20
Lot 3	1,480	20	74	20
Lot 4	1,480	20	74	20
Lot 5	1,480	20	74	20
Lot 6	1,480	20	74	20
Lot 7	1,480	20	74	20
Lot 8	1,942.5	26.25	74	26.25
Lot 9	1,942.5	26.25	74	26.25
Lot 10	1,480	20	74	20
Lot 11	1,480	20	74	20
Lot 12	1,480	20	74	20
Lot 13	1,480	20	74	20
Lot 14	1,702	23	74	23

* Width is measured from the midpoints of opposite lot lines.

The findings above show that the applicable density and lot dimension standards are met. Subject to a condition requiring an ADU on Lot 1, the Hearings Officer finds this approval criterion can be met.

G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.

Findings: The regulations of PCC 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat.

Additionally, where geologic conditions or historic uses of the Subject Property indicate that a hazard may exist, Applicant must show that the proposed land division will result in lots that are suitable for development. Applicant may be required to make specific improvements to make the lots suitable for their intended uses and the provision of services and utilities.

Clearing and Grading: In this case, the Subject Property is relatively flat and is not located within the Potential Landslide Hazard Area. However, a new alley and associated stormwater system is proposed as part of the land division, which will require grading on the Subject Property. Applicant submitted a Preliminary Clearing and Grading Plan (Exhibit C.4) that depicts the proposed work, including existing and proposed elevation contours, a soil stockpile area, erosion control fencing, construction entrance, and the overall limits of disturbed area (entire Subject Property). Applicant provided the following findings (Exhibit A.3) to address this criterion (PCC 33.635.100.A-F):

A. *"No changes to drainage patterns are proposed. Existing contours on-site are only being changed slightly to match required public street and sidewalk improvement design grades. For example, the site slopes from south to north. After grading, the site will continue to have the lower elevations at the north and the higher elevations at the south along NW Wilson. Stormwater disposal is proposed to be via infiltration* (Staff Note: revised to be off-site discharge, per findings associated with Stormwater Management approval criteria, below).
B. *The entire site is proposed to be graded to construct the 14 buildings and alley. The clearing and grading plan reflects that the entire site will be disturbed.*
C. *This is a smaller, urban site with higher densities required by zoning. As such, the entire site is proposed to be graded to construct the 14 buildings and alley. The clearing and grading plan reflects that the entire site will be disturbed.*
D. *No salvageable topsoil exists on site due to historical and current usage patterns; geotechnical explorations confirm the site is essentially sorted and unsorted gravels. There are limited opportunities for topsoil to be used on the site as most of the lots will be developed with buildings and alley paving*
E. *A proposed soil stockpile area has been designated on the plan.*
F. *There are not any trees on the site, so this criterion does not apply."*

As shown above, the Hearings Officer finds that the Preliminary Clearing and Grading Plan meets the approval criteria. As discussed later in this decision, the Site Development Section of BDS required that Applicant apply for a Site Development Permit for the construction of the proposed private alley. The permit application must include a final clearing and grading plan that must be consistent with the preliminary clearing and grading plan approved with this land division. Note, the scope may be reduced to include only alley improvements provided Site Development requirements are met. The Hearings Officer finds that with a condition of approval that Applicant's final clearing and grading plan be consistent with the preliminary clearing and grading plan, this approval criterion is met.

Land Suitability: As noted above, the historic use of the Subject Property has been for something other than residential. Fill soils have been identified on the Subject Property but there is no other known geological conditions or historic uses that would indicate a hazard may exist. Applicant proposed to remove an existing structure and redevelop the Subject Property. Historic plumbing records were not located for the Subject Property. As such, it is unclear if an on-site

sewage disposal system is located on the Subject Property. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for the decommissioning of any on-site sewage disposal system (if one is discovered to exist) on the Subject Property with a completed Disclaimer for Existing On-site Sewage Disposal System, prior to final plat approval. The Hearings Officer finds that with this condition, the new lots can be considered suitable for development, and this approval criterion can be met.

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

Findings: The following tract is proposed:

- Tract A: Private Alley

This tract will serve Lots 1 through 14 in this proposal but may also serve additional development to the north in the future. With a condition that the proposed alley tract be owned in common by, at a minimum, the owners of Lots 1 through 14 or a Homeowner's Association, the Hearings Officer finds that this approval criterion can be met. The following easements are not required but were proposed by the Applicant:

- *"A Private Access Easement is proposed over the relevant portions of Lot 2 to provide vehicle access to Lots 1 and 3;*
- *A Private Access Easement is proposed over the relevant portions of Lot 5 to provide vehicle access to Lots 4 and 6;*
- *A Private Access Easement is proposed over the relevant portions of Lot 7 to provide vehicle access to Lots 6 and 8;*
- *A Private Access Easement is proposed over the relevant portions of Lot 10 to provide vehicle access to Lots 9 and 11;*
- *A Private Access Easement is proposed over the relevant portions of Lot 13 to provide vehicle access to Lots 12 and 14;*
- *A 10-foot wide private access easement is proposed over Lots 8 and 9 to provide pedestrian access from NW Wilson Street to the Private Alley Tract (Tract A)."*

As stated in Section PCC 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the tract and easements described above and facilities within those areas. This criterion can be met with the condition that maintenance agreements are prepared and recorded with the final plat. The maintenance agreement associated with the Private Alley Tract shall include provisions allowing access for adjacent development subject to explicit approval from the City of Portland. In addition, the plat must reference the recorded maintenance agreements with a recording block for each agreement, substantially similar to the following example:

"A Declaration of Maintenance agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

With the conditions of approval discussed above, the Hearings Officer finds that this approval criterion is met.

K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,

Findings: The transportation system must be capable of supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced and measures to mitigate impacts may be necessary.

Applicant submitted a Transportation Study (Exhibit A.7) to address this criterion. The Development Review Section of the Portland Bureau of Transportation ("PBOT") reviewed the application against the evaluation factors and has provided the following findings, which incorporates findings provided by Applicant (see Exhibit E.2). PBOT, in Exhibit E.2, stated:

"CITY OF PORTLAND TRANSPORTATION CAPACITY IMPLICATIONS (STREET CAPACITY/LEVEL OF SERVICE)

The City of Portland Administrative Rule TRN 10.27 - Administrative Rules for Traffic Capacity Analysis in Land Use Review Cases provides standards for traffic impact studies required in the course of land use review or development. TRN 10.27 states: For traffic impact studies required in the course of land use review or development, the following standards apply:

1. *For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.*
2. *For stop-controlled intersections, adequate level of service is LOS E. Level of service for two-way stop-controlled intersections is based on individual vehicle movement, and all-way stop controlled intersections is based on a weighted average of vehicle delay for the intersection.*
3. *An amendment or other land use application that requires analysis of traffic capacity and allows development that either (1) may cause a transportation facility to perform below the standards established in sections 1 and 2, or (2) adds vehicle trips to a facility that is already performing below the standards established in sections 1 and 2 may be approved if:*

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

   (i) *the development is limited to result in no net increase in vehicle trips over what is allowed by the existing zoning; OR*
   (ii) *one or more combination of transportation improvements or measures are imposed to mitigate the transportation impacts of the amendment or other land use application in a manner that avoids further degradation to the performance of the facility by the time of any development.*

Existing Traffic Operations Analyses

All intersection operational analysis was conducted using the 2000 Highway Capacity Manual analysis procedures for the existing, 'background' year 2020 conditions and with subdivision ('total') year 2020 conditions. Per PBOT scoping direction, we also evaluated a total traffic scenario assuming the existing NW 29th Avenue diverter is removed and some through traffic re-routes.

Turning movement counts were collected at the study intersections on Tuesday, November 6, 2018 while school was in session. Traffic counts were collected during the morning peak hour (7:00 to 9:00 AM) and the evening peak hour (4:00 to 6:00 PM) time periods. Appendix 'B' contains the traffic count worksheets.

Figure 2 provides a summary of the existing lane configurations and traffic control devices, recorded traffic volumes during the two peak hours and the existing intersection operations. As shown in Figure 2, both intersections satisfy City of Portland intersection operational standards today. Appendix 'C' contains the existing conditions intersection analysis worksheets.

Year 2020 Traffic Operational Analyses

The background traffic analysis identifies how the study area's transportation system will operate in the future without the proposed townhomes. Year 2020 background traffic volumes were developed by applying a one percent annual growth rate to the existing volumes at the study intersections per direction from City staff as shown in Figure 3.

Year 2020 'total traffic' volumes were developed by adding the anticipated trip generation associated with the townhomes to the background traffic volumes. The distribution of the trips associated with the townhomes is reflected in Figure 4. No capacity-based improvements at the study intersections are anticipated as part of this project.

Figures 3 and 4 also provide a summary of the year 2020 background and total traffic volumes and intersection analyses. As shown in the two figures, all intersections will continue to satisfy City of Portland intersection operational standards even with development of the townhomes. Appendix 'C' contains the 2020 background and total traffic conditions intersection analysis worksheets.

Based on the analyses of traffic operations and the relatively low site trip generation, the City's intersection operations analysis criterion is met.

Further details on a sensitivity analyses of traffic operations assuming the diverter is removed are discussed below.

CONNECTIVITY

As part of the subdivision, the right-of-way (ROW) on NW 30th Avenue between NW Nicolai and NW Wilson Streets, on NW Roosevelt west of NW 30th Avenue, and on NW Wilson Street along the site frontage will be improved. These improvements will help to enhance multimodal connectivity in the neighborhood.

Per PBOT request, we have assessed the traffic-related benefits and trade-offs associated with the potential removal of the existing traffic diverter at NW 29th Avenue/NW Wilson Street for the immediate area, as well as in context of with larger neighborhood system.

In consideration of this request by PBOT, we reviewed the Northwest Transportation Study performed by the City of Portland Bureau of Planning (1982) that recommended the construction of traffic diverters at several neighborhood streets in NW Portland, particularly related to 'the infiltration of neighborhood streets by through traffic in the residential area west of 23rd Avenue.' One of the key recommendations of this study was to 'discourage the use of streets west of 23rd Avenue for access to/from the NW Industrial Area and St. Helens Road by closing off 29th and 30th Avenues south of St. Helens Road to nonemergency traffic and by constructing right-turn only islands on 24th, 25th, and 26th Avenues at Thurman Street.' This planning study and the significant community engagement led to the adoption of City Council Resolution 33213 (July 1982).

At the time the 1982 study was completed (prior to installation of the diverters), NW 29th Avenue south of NW Nicolai was shown to carry approximately 440 vehicles during the weekday AM peak hour and 610 vehicles during the weekday PM peak hour and more than 6,000 vehicles per day. In response, among other recommendations, NW 29th and NW 30th Avenues were recommended to be reconstructed to include (see also Figure 40 of the 1982 study):

- *'Traffic choker (through access for bicycles and emergency vehicles only) on NW 29th Avenue between Wilson & Roosevelt'*
- *'Diverter to prevent westbound-northbound and southbound-eastbound turns at 30th/Wilson and pavement of 30th from Wilson to Nicolai or the closure of 30th at Wilson'*

These recommendations were incorporated into the City Council Resolution.

Many of the transportation issues on the regional system highlighted in this study (NW 23rd, NW 25th, NW Cornell, NW Vaughn, I-405, NW Nicolai, NW Yeon, etc.) and that led to the Council Resolution are still present today. If the City were to require the removal of the diverter on NW 29th as part of this subdivision, as will be described below, we anticipate that the traffic volumes could be on the order of at least 200 – 300 peak hour trips based on the existing traffic measured at the adjacent intersections during the fall of 2018. It should be noted that the traffic volumes measured in 1982, prior to the installation of the diverters, were measured upwards of 600 vehicles per hour.

Today, with the diverter in-place, the section of NW 29th Avenue directly south of the diverter only facilitates local traffic within the neighborhood with measured volumes of 46 vehicles during the weekday AM peak hour and 35 during the weekday PM peak hour. With the diverter in-place, bicycle and pedestrian connectivity is still provided for the neighborhood as well as providing for a "low stress" route cycling as an alternative to US 30. Further, connectivity is provided for emergency services but cut through traffic between the employment and residential areas is not facilitated.

Given the Council Resolution and ongoing engagement from the neighborhood related to the need to retain the diverter, the Applicant respectfully requests that the diverter remain in-place. PBOT staff agrees this diverter will be retained.

For the purposes of this study, we performed a sensitivity analyses assuming that the diverter is removed and one-half of the existing traffic between NW Nicolai and NW Wardway diverts to NW 29th Avenue. Figure 5 presents the results of this sensitivity analysis. As shown in the figure, the intersection will continue to satisfy city LOS standards; however, the resultant 'cut-through' traffic volumes could again be significant. Note that the assumed volume re-routing is lower than the volumes in the 1982 study (as previously noted, the 1982 study documented NW 29th Avenue south of NW Nicolai carried approximately 440 vehicles during the weekday AM peak hour and 610 vehicles during the weekday PM peak hour). Appendix 'C' contains the 2020 total traffic conditions intersection analysis worksheets for this connectivity scenario.

TRANSIT AVAILABILITY

The nearest transit service is provided by Tri-Met Routes 15 and 77 with a stop located just to the west of the NW Wardway/NW Nicolai intersection. Route 15 (Belmont/NW 23rd) is a frequent bus route with service provided at approximately 15-minute headways or less. This route connects the neighborhood to Gateway, SE Portland, Portland City Center, and Nob Hill as well as the NW Industrial Neighborhood to the north of the proposed townhomes.

Route 77 (Broadway/Halsey) connects the new townhomes with NW Portland, the Pearl District, Union Station/Greyhound, Portland City Center, the Rose Quarter, Irvington, Hollywood, outer NE Portland, Fairview and Troutdale. Route 77 provides service Monday through Saturdays with headways of approximately 20 – 30 minutes and on Sundays with headways of approximately 30 – 60 minutes. The immediate area also benefits from car share programs (Car2go & ReachNow), bike share (Biketown) and Scooter share (Bird, Lime, Skip) programs.

Finally, this property is classified as 'close to transit' per the map1 referenced in City of Portland Zoning Code Section 33.266.110.B.

The existing service is adequate to support the new townhomes and no impacts to the transit service are anticipated. As such, this criterion is met.

AVAILABILITY OF BICYCLE AND PEDESTRIAN NETWORKS

NW 29th Avenue, NW 30th Avenue and NW Wilson Street are classified as local service streets for all modes. Per PBOT requirements, the site frontages along all three streets will be improved to provide the needed sidewalk widths along each street to connect the townhomes to the adjacent neighborhoods as well as to the sidewalks along NW Nicolai. As such, this criterion is met related to pedestrian networks. Per City standards, cyclists share the road with motorists along the three-surrounding local service streets. As such, the bicycle network is adequate, and this criterion is met.

NW Nicolai is classified as a neighborhood collector and includes on-street bike lanes, sidewalks and convenient transit service. These facilities provide pedestrian, transit and cyclists with convenient connections to surrounding neighborhoods and businesses, as such, this criterion is met.

ON-STREET PARKING IMPACTS

To inform the subdivision application, we analyzed the ability of the existing on-street parking system to serve the parking demand associated with the proposed

townhomes. Given the existing surrounding residential uses, we measured the existing parking demand data along the surrounding streets at midnight to represent the peak residential on-street parking utilization on November 6, 2018. Parking demand was measured on the following block segments:

- *NW 29th Avenue between NW Nicolai and NW Vaughn Street; and,*
- *NW Wilson between NW 29th Avenue and one block west of NW 30th Avenue.*

Table 4 provides the estimated parking demand based on the 85th percentile rates shown in ITE's Parking Generation, 4th Edition. As shown in this table, the application of single family rates would yield a demand of 32 spaces whereas the townhomes would yield a demand of 23 spaces. As discussed above, 2 spaces will be provided per unit and eight spaces will be provided along the alleyway, thereby meeting the onsite demand for the homes, regardless of whether the townhome or single-family home rate is applied.

As noted before, the site is located on the 'close to transit' map referenced in Portland Zoning Code Chapter 266.110.B. For this reason, no minimum parking is required on-site. However, per PBOT's request, we analyzed the on-street parking impacts conservatively assuming the need to provide 32 spaces, including 36 provided on-site and none to be provided off-site. A summary of the parking supply, existing peak demand, and utilization as measured in November 2018 is shown in Table 5.

As shown in the table, the on-street parking system currently has a peak 43 percent utilization overnight. When the demand was measured, there were 72 unoccupied on-street spaces on the 10 block faces surveyed. With the addition of the townhome accesses and alley, the on-street supply would be increased by approximately 2 – 3 spaces (due to frontage improvements that facilitate additional parking but not including the eight spaces provided in the alley), thereby yielding a total on-street supply of approximately 129 - 130 spaces. With this increase, the on-street utilization (excluding the alley) would still be 43 percent full (55 of 129 spaces occupied). Therefore, we conclude there are no on-street parking impacts and this criterion is met.

ACCESS RESTRICTIONS

No new access restrictions are included as part of the subdivision. For this reason, this criterion is met.

NEIGHBORHOOD IMPACTS

The neighborhood impacts have been measured relative to the availability of on-street parking as well as to connectivity. As mentioned previously, both criterion are met with the proposed site plan therefore we conclude no neighborhood impacts are associated with on-street parking and/or connectivity (unless PBOT determines that removal of the existing diverter on NW 29th Avenue is required). Therefore, this criterion is met.

IMPACTS ON THE PEDESTRIAN CIRCULATION

Given the minor increase in trip-making associated with site development, minimal pedestrian volume-based impacts to the pedestrian circulation system are anticipated. Further as noted previously, the existing pedestrian network will be improved as part of site redevelopment2. As such, this criterion is met.

IMPACTS ON THE BICYCLE CIRCULATION

Given the minor increase in trip-making, minimal bicycle volume-based impacts to the bicycle circulation system are anticipated. Further, as noted previously, the existing on-street bicycle network is appropriate given the designated bicycle classifications and the planned right-of-way improvements with site development will benefit bicycle activity along the site frontage2. As such, this criterion is met.

IMPACTS TO TRANSIT CIRCULATION

Per the discussion above, minimal impacts to transit circulation are anticipated and this criterion is met."

PBOT noted that it reviewed and concurred with the information supplied by Applicant. PBOT also stated that it agreed with the traffic consultant's methodology, assumptions, and conclusions related to the transportation system. PBOT concluded that there would be no on or off-site transportation impacts requiring mitigation beyond the dedications and infrastructure required (identified later in this decision). PBOT concluded that the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area. The Hearings Officer concurs with the data, analysis, and conclusions as set forth by Applicant's traffic consultant (Exhibit A.7) and PBOT (Exhibit E.2). Therefore, the Hearings Officer finds this approval criterion is met.

L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

Findings: PCC 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities, and ROWs. The Hearings Officer finds that the criteria and standards are met as shown in the following table:

PCC 33.651 Water Service standard – See Exhibit E.3.

The Water Bureau indicated that service is available to the Subject Property from the 8-inch DI water main in NW Wilson Street. The water service standards of PCC 33.651 have been verified. Therefore, the Hearings Officer finds this approval criterion is met.

PCC 33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 comments.

BES indicated the following sewer infrastructure is located in the vicinity of the Subject Property: there is a 24-inch public CIPP combination sewer in NW 30th Avenue (As-Built #E09121). The sewer continues east as a 36-inch line on the north side of NW Nicolai Street (As-Built #E05510). There is an 18-inch public RCP combination sewer in NW 29th Avenue (As-Built #E08962). There are abandoned mains in NW 30th Avenue, vacated NW Roosevelt, and NW 29th Avenue. There is no sewer service in NW Wilson.

Applicant proposed to serve the sanitary sewer disposal needs of the development via extending a sewer main within the private alley tract (Tract A) at the rear of the lots. Under Public Works Permit (PWP) #EP528, BES Development Engineering approved the Concept Development plans (i.e. 30 percent design) for the sewer extension; therefore, BES concluded that sanitary sewer could be made available to Lots 1-14 as shown. Prior to final plat approval, Applicant must complete one of the following to the satisfaction of BES: (1) Through a Public Works Permit submit approved engineered plans, (2) provide a financial guarantee, (3) pay all outstanding fees, and (4) provide a signed permit document or construct the public sewer, and (5) pay associated fees under a BES Simplified Permit. In addition, the final plat must include a sewer easement, granted to the City of Portland, over the relevant portions of the private alley tract (Tract A). Subject to these conditions, the Hearings Officer finds that the sanitary sewer service standards of PCC 33.652 have been verified and this approval criterion can be met.

PCC 33.653.020 and .030 Stormwater Management criteria and standards – See Exhibits E.1 and E.5.

No stormwater tract is proposed or required. Therefore, the Hearings Officer finds that approval criterion A is not applicable. To meet criterion B, the application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater. Applicant submitted a Geotechnical Report (Exhibit A.6) and multiple versions of a Preliminary Drainage Report (Exhibits A.8-10) to address this criterion. Due to the presence of fill and shallow groundwater on the Subject Property, BES did not support onsite infiltration.

Applicant proposed to manage stormwater runoff associated with the private development (lots and alley) via discharge to a combined sewer main to be extended within the private alley tract (Tract A). Flow control standards will be met with a detention pipe system. The proposed detention pipe was sized per the Performance Approach and will manage runoff from all proposed lots as well as the private alley tract. The proposed underground detention system is conceptually acceptable per the Stormwater Management Manual ("SWMM"). In order to comply with Oregon Plumbing Specialty Code, Applicant received

approval of a plumbing code appeal (#20129) to share stormwater systems across property lines.

Applicant proposed to manage stormwater associated with the NW Wilson Street public improvements via lined vegetated planters. Payment of an offsite management fee for stormwater requirements triggered by the NW 30th Avenue improvements is proposed. Under Public Works Permit ("PWP") #EP528, BES Development Engineering approved the Concept Development plans (i.e. 30 percent design) for the sewer extension and public stormwater facilities.

Prior to final plat approval, Applicant must complete the following related to the construction of public stormwater facilities within the site's frontages, to the satisfaction of BES; (1) through the Public Works Permit submit approved engineered plans, (2) provide a financial guarantee, (3) pay all outstanding fees, and (4) provide a signed permit document.

BES indicated conceptual approval of Applicant's proposed method of stormwater management. Subject to the conditions of approval noted above, the Hearings Officer finds this approval criterion can be met.

PCC 33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart. The block on which the Subject Property is located contains dimensions of approximately 300-feet by 300-feet with frontages on NW Wilson Street, NW Nicolai Street, NW 29th Avenue, and NW 30th Avenue. The Hearings Officer finds the noted spacing standards are met at this location. Therefore, the Hearings Officer finds this approval criterion is met.

PCC 33.654.110.B.4 Approval criterion for alleys in all zones.
PCC 33.654.130.E Ownership of Alleys

A private alley tract (Tract A) is proposed at the rear of the lots that connects NW 29th to NW 30th Avenue to provide vehicle access to each lot. Applicant provided the following comments (Exhibit A.3) related to this approval criteria for alleys in all zones (PCC 33.654.110.B.4):

> *"An alley is not required, but proposed for multiple reasons:*
>
> - *By provision of the alley with rear access to garages, the number of driveways crossing sidewalks is limited which improves pedestrian sidewalk safety.*
> - *With garages located to the rear, an activation of the rear area is generated which also improves general safety.*
> - *The proposed alley also better meets commonly accepted urban design goals by creating room for architecturally prominent front steps. (Most*

rowhome examples in NW Portland have been forced to build narrow front steps to accommodate the width requirements of a front garage).

- *The proposed alley enables the opportunity for residents to activate the streetscape by "hanging out on the front stoop." This approach also enables an urban design in line with historically proven rowhome streetscapes.*
- *Finally, with no garage doors facing Wilson Street, on-street parking is created (ref. traffic report findings) as currently the northern side of Wilson Street is unimproved. This criterion is met."*

An alley was not required but Applicant chose to provide one. The Hearings Officer finds that incorporating an alley into the development will provide many benefits identified by the approval criterion, including moving garage access away from the street, reducing the number of driveways crossing sidewalks, providing alternative locations on the Subject Property for parking, limiting the number of garage doors facing the street, and maintaining on-street parking. For these reasons, the Hearings Officer finds this approval criterion is met.

The approval criteria for ownership of alleys (PCC 33.654.130.E) state the following:

> *"Where the proposed alley abuts sites that may be divided or further developed under current zoning, the alley may be required to be dedicated to the public. Factors to be considered include the spacing of existing rights-of-way, whether adjacent sites are already fully developed under the current zoning, and whether the alley can provide vehicle access to adjacent developable sites. The Office of Transportation must approve the dedication and configuration of any public alley improvements."*

Applicant provided the following comments (Exhibit A.3) addressing this approval criterion:

> *"This criterion is permissive in that the alley 'may be required to be dedicated to the public.' However, there are multiple reasons the alley should remain private.*
>
> - *The abutting property to the north consists of multiple legal lots and is large enough to be divided or further developed under the current zoning of EXd. As an entire site, it features frontages on its eastern, northern, and western sides; therefore, the need for public frontage on its southern side is dubious. Should this adjacent property be developed in multiple phases, or by multiple ownerships each will have the ability to gain public access towards most likely NW 29th or NW 30th Streets.*
> - *Public auto connectivity creation from North to South at this point of the neighborhood was explicitly closed by City Council Resolution #33213 as*

part of the larger NW Neighborhood traffic management plan established in 1982. The transportation study conducted for this application by Kittelson Engineering affirmed the basic conditions and rational underlying the 1982 study findings continue to exist. In addition, the Northwest District Association encourages the City to honor the findings of the 1982 study, to honor the City Council Resolution, and to complete the public improvements directed by this resolution but yet to be completed.

- *The Office of Transportation has indicated that their agency is not interested in a public alley in this location, this was re-confirmed during this proposals pre-application conference and reflected by the City-issued meeting notes. More recently (dated January 25, 2019), PBOT provided a response noting that PBOT supports a public alley at this location. The applicant respectfully encourages City Agencies to honor the original directive provided.*
- *The subject site is a multi-dwelling R1 residential zone, but the property to the north is not a pure residential zone and could be developed to a much higher density than the subject site. It would not be appropriate for the 14 lots of the subject property to prospectively share their driveway alley with the property to the north which is zoned EX and which would allow a multitude of uses and development of substantially more density or more varied uses and intensities of development than the subject site.*

The approval criterion notes that the alley 'may' be required to be public, but does not use the more compulsory 'should.' Therefore, this indicates that there is discretion for when an alley may be required to be public. For the reasons noted above, this site is not an appropriate location for a public alley.'

The original Staff recommendation (Exhibit H.2) included the following findings regarding this criterion:

"Although the proposed alley abuts a site that may be divided or developed under current zoning, Staff finds that private ownership is acceptable in this instance. The adjacent site is zoned Central Employment (EX), which is intended to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area. Additionally, residential development is allowed at a much higher intensity (65' height/3 to 1 FAR) than is proposed on this site. Therefore, it is likely not appropriate for the proposed alley, which is proposed to serve attached single-dwelling development, to be dedicated to the public to provide access for higher intensity development to the north in the future. In addition, there are adequate opportunities to serve future development from other public street

frontages."

During the open record period associated with this hearing, BDS staff became aware of a proposed Early Assistance application (EA 19-169257 PC) that included redevelopment of the adjacent site to the north of the Subject Property. Included in this proposal is a 5-story, 18-unit residential building with frontage on NW 30th Avenue that proposes vehicle access to a garage via the private alley proposed to be created through this review. Although it has become apparent the proposed alley may provide access to adjacent developable sites to the north, the criteria do not definitively require it to be dedicated to the public. Further, PBOT expressed no interest in the alley being dedicated to the public. It has been noted that an alley is not required but Applicant chose to provide one. This is a rare circumstance in which a full block alley can be realized and will provide multiple benefits that facilitate good urban design, as described above. BDS staff concluded that private ownership of the alley to be acceptable. However, BDS staff recommended additional measures that should be required to ensure that ownership/maintenance (PCC 33.636.100) of the alley tract is clear and that associated improvements are sufficient to accommodate expected users (PCC 33.654.120.F). The Hearings Officer concurs with BDS staff's analysis and conclusions (excepting as those related to BDS staff recommended condition C.8 – Exhibit H.14a) and find there is no need to dedicate the alley to the public (See also findings for PCC 33.654.120.F below which are incorporated as additional findings for this approval criterion).

PCC 33.654.120.B and C Width and elements of the right-of-way – See Exhibit E.2.

At this location, NW Wilson Street is improved with a 30-foot paved roadway surface within a 60-foot wide ROW. The Subject Property's NW 30th Avenue frontage contains a partial gravel roadway within a 60-foot wide ROW. There are no curbs or sidewalks along either of these street frontages. The Subject Property's NW 29th Avenue frontage is improved with a variable width planter, 6-foot sidewalk, and 2-foot setback to private property within a 60-foot wide ROW.

In reviewing this land division, PBOT relied on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians, and bicyclists can safely and efficiently serve the proposed new development. In this case, PBOT determined that street and sidewalk improvements must be made in order to ensure that safe vehicle and pedestrian travel is possible to and from the proposed development by expected users. The Hearings Officer finds that to accommodate these improvements, as well as an associated stormwater facility discussed earlier in this decision, additional ROW must be dedicated along the Subject Property's NW 29th Avenue and NW Wilson Street frontages. With the dedication and improvements, the Hearings Officer finds that the width will be sufficient to accommodate expected users and PBOT has approved the configuration of elements within the ROW.

The Hearings Officer finds this approval criterion is met, with the condition that curb and sidewalk improvements are made, and the required ROW dedications are shown on the

Final Plat.

PCC 33.654.120.F Approval criterion for the width of alleys. The width of the alley right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity such as existing street and pedestrian system improvements, existing structures, and natural features.

Applicant proposed an alley (Tract A) to provide vehicle access to Lots 1 through 14. As noted earlier in this decision, the alley may also provide vehicle access to adjacent development to the north. The alley is proposed to be within a 25-foot wide tract. The *Administrative Rules for Private Rights of Way* are the standards that govern the construction of alleys. These rules recommend a minimum roadway width of 16-feet for alleys. Where standard curbs are provided, the roadway widths listed exclude the area occupied by the curbs. Where mountable or flush curbs are provided, the curb may be included within the width. A wider roadway may be required to accommodate fire apparatus access or adequate turning radius. Applicant provided a "typical section" (Exhibit C.5) of the alley improvements, which included a drivable surface of 16 to 24-feet, tree wells, landscaping, and a 1-foot setback to private property. Stormwater associated with the alley is proposed to be collected and discharged to a combined sewer main within the tract (described earlier in this decision).

Applicant's submittal included conflicting information. The Site Development section of BDS (Exhibit E.5) determined that a 25-foot wide tract can accommodate necessary improvements in conformance with the *Administrative Rules for Private Rights of Way*. In addition, it was not initially clear that expected users may include future development to the north. Due to safety concerns associated with a through alley, Site Development indicated the design must demonstrate how the alley improvements maintain safety with a speed limit of 15 miles per hour through the use of traffic calming measures and curb requirements abutting amenities (trees, landscaping).

Radelet, in Exhibit H.16 stated the following:

> *"Condition C.8 addresses the property to the north of the subject site and requires that the northern property, which is under a different ownership and is not part of the current proposal, submit an analysis of whether the alley in the current proposal is adequate to serve the northern property's access needs if that different site seeks the alley access in the future. We would like this condition removed for a number of reasons: (1) the applicant for the subject site does not have authority over the property to the north; and (2) if the property to the north seeks a development permit that request alley access, the City can, at that time, use the same authority it is exercising here to request that the northern redevelopment provide the study defined under Condition C.8."*

The Hearings Officer agrees with Radelet's comment that Applicant, in this case, has no

authority over the site north of the Subject Property. The Hearings Officer takes note that the proposed alley is to remain "private" and is not a public dedicated ROW. The Hearings Officer finds that use of the private alley by the site located north of the Subject Property would require agreement by the owner of the lots of the Subject Property; the City may not require the owners of the lots of the Subject Property to allow use of the Subject Property's private alley by the owner(s) of the site to the north. The Hearings Officer finds that it may be possible for the City to condition any approval of an application to develop the site to the north of the Subject Property to obtain permission from the owners of the lots at the Subject Property to use the Subject Property private alley. In that case, the City may have the right to require the applicant for development of the site to the north of the Subject Property to conduct an analysis related to the ability of the Subject Property to safely accommodate additional users. The Hearings Officer finds BDS staff's recommended condition C.8 (Exhibit H.14a) is not legally defensible.

The Hearings Officer finds that this approval criterion can be met with a condition that a Site Development permit meet applicable requirements of the Administrative Rules for Private Rights of Way and be in substantial conformance with Exhibit C.5.

PCC 33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent ROWs can be provided on the final plat. At this time no specific utility easements adjacent to the ROW have been identified as being necessary. Therefore, the Hearings Officer finds that this approval criterion is met.

APPROVAL CRITERIA FOR ADJUSTMENTS

PCC 33.805.010 Purpose

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. They also 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.

PCC 33.805.040 Adjustment Approval Criteria

The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met.

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

Findings: An Adjustment is requested to the maximum building length (PCC 33.120.230.B) from 100-feet to 160-feet for Lots 1-8 and to 120-feet for Lots 9-14. Applicant submitted an Adjustment Narrative (June 17, 2019), Building Footprint Plan (June 25, 2019), and Rendering (April 11, 2019) to address this criterion. The purpose (PCC 33.110.230.A) of the building length standard is as follows:

> *"The maximum building length standard, along with the height and setback standard, limits the amount of bulk that can be placed close to the street. The standard assures that long building walls close to streets will be broken up into separate buildings. This will provide a feeling of transition from lower density development and help create the desired character of development in these zones."*

In this zone, the maximum building length for the portion of buildings located within 30-feet of a street lot line is 100-feet. This standard applies to the combined length of the street-facing facades of each unit (PCC 33.120.270.C.6). The minimum front/street building setback within the R1 zone is 3-feet and the maximum height is 45-feet, except on the portion of a site within 10-feet of a front property line, where the maximum height is 25-feet (PCC 33.110.215.B.1).

Applicant submitted a Building Footprint Plan (June 25, 2019) and Rendering (April 11, 2019) to demonstrate how the proposal will equally or better meet the purpose of the regulation to be modified. In addition, Applicant proposed the following conditions of approval and design features:

- *"Building length shall not exceed 120 feet and 160 feet respectively on each of the property clusters.*
- *One ten-foot break shall be provided between the two rowhome clusters with a minimum break width of 10 feet and a minimum break depth of 30 feet.*
- *NW Wilson setback shall be at least 10' from the street lot line for lots 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, exactly 13' for lots 1 and 8, and exactly 8' for lots 2 and 7; excluding front entry steps to a main entry and/or ADU and bay window projections.*
- *Garage entry shall not be off NW Wilson Street; garages shall be accessed from the rear private alley tract.*
- *Main entrance. Homes will have a main entrance elevated at least 3 feet from the street. Stairs will access the main entrance.*
- *Façade. The main door of the front of the townhome shall be recessed from the front elevation by a minimum of 3 feet.*
- *Windows. At least 20 percent of each homes front façade must be windows, French doors, sliding balcony doors, or main entrance doors. Windows used to meet this standard must allow views from the building to the street. Glass block does not meet this standard."*

The first element of the purpose statement for maximum building length seeks to limit the amount of bulk that can be placed close to the street in conjunction with the height and setback standards. In order to address this, Applicant proposed to articulate the plane of the combined front façade through variable setbacks. A 10-foot front setback is proposed for units on Lots 3-6 and 9-14, a 13-foot setback is proposed for Lots 1 and 8, and an 8-foot setback is proposed for Lots 2 and 7.

As noted above, the minimum front/street building setback within the R1 zone is 3-feet and the maximum height is 45-feet, except on the portion of a Subject Property within 10-feet of a front property line, where the maximum height is 25-feet. By placing units on Lots 2 and 7 at an 8-foot setback, the initial height at the street will be limited to 25-feet, which will limit the amount of bulk in this area in comparison to a scenario where all development is setback 10-feet so a maximum height limit of 45-feet may be achieved. Although not initially proposed, BDS staff, in consultation with Applicant, came to an agreement to apply this same treatment to the combined street-façade of units on Lots 9-14 through implementing an 8-foot setback for units on Lots 10 and 13. In addition, providing increased setbacks of 13-feet on Lots 1 and 8 will further accomplish the goal of presenting less bulk at the street.

The second part of the purpose statement indicates that the standard assures that long building walls close to streets will be broken up into separate buildings. The combined length of street facing facades of units on Lots 1-8 will be 60-feet over the maximum standard and the combined length of facades on Lots 9-14 will be 20-feet over the standard. A 10-foot break is proposed between these buildings on Lots 8 and 9. While only one physical break is proposed between these two buildings, articulation through variable setbacks can equally meet the intent by breaking up the façade. The Hearings Officer finds that placing units on Lots 1 and 8 at an increased setback of 13-feet (plus or minus 1-foot) adjacent to units on Lots 2 and 7 at a decreased setback of 8-feet will create the illusion of the combined building length being less than it actually is as the end units (one and eight) will be imperceptible as viewed from either end of the street as they will be obscured by units two and seven. Architectural elements, most notably front stoops and recessed main entrances, will additionally facilitate in breaking up the facades.

Lastly, the purpose of the standard intends to provide a feeling of transition from lower density development and help create the desired character of development in these zones. The characteristics of the R1 zone (PCC 33.120.030.C) are as follows:

> *"The R1 zone is a medium density multi-dwelling zone. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the R2 zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses. Generally, R1 zoning will be applied near Neighborhood Collector and District*

Collector streets, and local streets adjacent to commercial areas and transit streets."

This Subject Property is located on a local service street adjacent to commercial/employment zoning to the north and east. R1 zoning is located across NW Wilson Street to the south and single-dwelling (R5) development is predominantly located to the west of the Subject Property. The only lower density development in the vicinity is to the west and is separated from the proposal by NW 30th Avenue, which facilitates the transition to this higher density development by providing a means of separation. Providing setbacks of less than 10-feet on various lots will require the height to be limited to 25-feet in those areas, which is comparable to that of the adjacent lower density zone further aiding in this transition.

The Hearings Officer finds that the proposed adjustment does not appear to conflict with the desired character of development in the R1 zone so long as approval is conditioned upon the requirement that Applicant have variable setbacks from NW Wilson.

BDS staff, in the Revised Staff Report (Exhibit H.14a) recommended a condition of approval (C.1) to assure variable setbacks would occur. BDS staff, in Exhibit H.14a, recommended the following language for Condition C.1:

"Development on Lots 1 through 14 must be setback from the NW Wilson Street front property line exactly as follows:

- *Lots 3-6 and 9-14: 10-feet*
- *Lots 1 and 8: 13-feet*
- *Lots 2, 7, 10 and 13: 8-feet."*

Radelet, in Exhibit H.16, stated the following:

"Discussions occurred with City Staff regarding varying facades to meet the maximum building length standard. We may var the façade more than the minimum that is set in the condition of approval, therefore, we ask that the condition of approval be clarified to allow additional variation. The proposed amended condition of approval is provided here:

Development on Lots 1 through 14 must be setback from the NW Wilson Street front property line ~~exactly~~ as follows:

- *Lots 3-6 and 9-14: <u>At least</u> 10-feet*
- *Lots 1 and 8: <u>At least</u> 13-feet*
- *Lots 2, 7, 10, and 13: <u>Exactly 8-feet.</u>"*

The Hearings Officer finds that the term "exact" in the BDS staff recommended condition C.1 may be too restrictive. However, the Hearings Officer also finds that based upon the Radelet proposed Condition C.1 language, could conceivably allow Lots 3-6 and 9-14 to have the same setback from NW Wilson as Lots 1 and 8. Therefore, the Hearings Officer finds, to assure that setbacks from NW Wilson are variable, as intended by the BDS staff recommended condition C.1 language, the Hearings Officer finds Condition C.1 should read as follows:

> *"Development on Lots 1 through 14 must be setback from the NW Wilson Street front property line as follows:*
>
> - *Lots 3-6 and 9-14: at least 10-feet*
> - *Lots 1 and 8: at least 13-feet*
> - *Lots 2, 7, 10 and 13: exactly 8-feet"*
> - *The setbacks from NW Wilson for Lots 3-6 and 9-14 shall be at least 3-feet different from the setbacks from NW Wilson for Lots 1 and 8."*

Subject to the inclusion of the Hearings Officer's proposed setback condition (C.1) as set forth above, the Hearings Officer finds that the proposed Adjustment to the maximum building length (PCC 33.120.230.B) from 100-feet to 160-feet for Lots 1-8 and to 120-feet for Lots 9-14 equally meets the purpose of the standard. Therefore, the Hearings Officer finds this approval criterion can be met.

B. If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The Subject Property is in a residential zone (R1) and is located within the Northwest District Association neighborhood. The residential area considered is defined as shown on the Zone Map (Exhibit B). Employment zoning (EX, EG1/EG2) is adjacent to the north and east of the Subject Property and is therefore not taken into consideration. Applicant identified numerous examples of existing development, most notably 2021-2065 NW 29th Avenue and 1905 NW 29th Avenue, that do not meet the current building length standard as justification for the requested adjustment. The Hearings Officer finds that Applicant's proposal will result in a product that is less impactful then the provided examples, thereby not significantly detracting from livability or appearance in this context. In addition, the Hearings Officer finds that measures taken to articulate the combined street-facing façade of the proposed rowhouses will facilitate a transition from the lower density residential area to the west, as noted above. The Hearings Officer finds the proposal will not significantly detract from the livability and appearance of the residential area. Therefore, the Hearings Officer finds this approval 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: Only one Adjustment is requested with this application. Therefore, the Hearings Officer finds this approval criterion is not applicable.

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

Findings: The Subject Property is not located within a scenic or historic overlay zone. Therefore, the Hearings Officer finds this approval criterion is not applicable.

E. **Any impacts resulting from the adjustments are mitigated to the extent practical;**

Findings: The Hearings Officer finds that with the proposed conditions, most notably variable setbacks, any impacts resulting from approval of the requested adjustment to maximum building length will be adequately mitigated. See also the findings for sections A. and B. immediately above. The Hearings Officer finds this approval 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 Subject Property is not located within an environmental zone. Therefore, the Hearings Officer finds this approval criterion is not applicable.

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review. 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 11 can be met, and those of PCC 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.

Future Development
Among the various development standards that will be applicable to this lot, Applicant should take note of:

- **Additional standards for attached houses, detached houses, and duplexes accessed by common greens, shared courts, or alleys (PCC 33.120.270.E).** When a land division proposal includes common greens, shared courts, or private alleys, maximum building coverage is calculated based on the entire land division site, rather than for each lot (PCC

33.120.270.E.6). The entire land division site is 29,551.5 square feet in size. Therefore, the total building coverage (60 percent) allowed for the site is 17,730 square feet. No building coverage is proposed within the private alley. Based on this, Applicant has chosen to allocate building coverage for each lot as follows:

Lot	Total allocated building coverage (Square feet)
Lot 1	1,423
Lot 2	984
Lot 3	1,423
Lot 4	1,423
Lot 5	984
Lot 6	1,423
Lot 7	984
Lot 8	1,423
Lot 9	1,423
Lot 10	984
Lot 11	1,423
Lot 12	1,423
Lot 13	984
Lot 14	1,423

Existing development that will remain after the land division. The Subject Property is currently vacant, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R1 zone. Therefore, this land division proposal can meet the requirements of PCC 33.700.015.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740	Title 17 – Sewer Improvements

Bureau	Code Authority and Topic
www.portlandonline.com/bes	2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 11 – Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

As authorized in Section PCC 33.800.070, conditions of approval related to these technical standards have been included in the Hearings Officer's Decision on this proposal.

- Applicant is required to make improvements to the proposed private alley tract. Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of PCC Title 33, these requirements are also based on the technical standards of PCC Title 17 and PCC Title 24.

- Applicant must meet the requirements of the Fire Bureau in regard to fire apparatus access, including aerial access; ensuring adequate hydrant flow from the nearest fire hydrant(s); and, addressing requirements. These requirements are based on the technical standards of PCC Title 31 and Fire Bureau Policy B-1.

- Applicant must meet the requirements of Urban Forestry for tree removal and planting as a part of the public works permit for Street improvements associated with NW 29th Avenue, NW Wilson Street, and NW 30th Avenue. This requirement is based on the standards of PCC Title 11 (Exhibit E.6).

III. CONCLUSIONS

Applicant proposed a 14-lot subdivision for attached houses with a private alley tract (Tract A) and concurrent Adjustment to the maximum building length (PCC 33.120.230.B) from 100-feet to 160-feet for Lots 1-8 and to 120-feet for Lots 9-14. The Hearings Officer, as noted in the findings above, found that this application does, or can meet with conditions, all relevant standards and approval criteria.

NIBA, through its attorney, requested the Hearings Officer add a condition of approval requiring Applicant to record a covenant that would notify purchasers/owners of the approved lots that there are nearby industrial uses and also to waive the lot owner's rights to assert that normal industrial use of nearby industrial properties constitutes a nuisance or other interference with

residential use. The Hearings Officer found no legal support for the NIBA request and did not include NIBA's requested condition of approval.

IV. DECISION

Approval of an Adjustment to the maximum building length (Portland City Code 33.120.230.B) from 100-feet to 160-feet for Lots 1-8 and to 120-feet for Lots 9-14, per the submitted Adjustment Narrative (June 17, 2019), Building Footprint Plan (June 25, 2019), and Rendering (April 11, 2019), subject to conditions C.1 and C.2;

Approval of a Preliminary Plan for a 14-lot subdivision that will result in 14 lots for attached houses and a private alley tract (Tract A), as illustrated with Exhibits C.1-9, subject to the following conditions:

A. The Final Plat must show the following:

1. Applicant shall meet the street dedication requirements of the City Engineer for NW 29th Avenue and NW Wilson Street. The required right-of-way dedication must be shown on the final plat.

2. A public sanitary sewer easement, granted to the City of Portland, shall be shown over the relevant portions of the private alley tract, to the satisfaction of the Bureau of Environmental Services. The easement must be labeled as "Public Sewer Easement to COP."

3. The private alley tract shall be noted on the plat as "Tract A: Private Alley."

4. The following Private Access Easements shall be shown and labeled on the final plat:

   - A Private Access Easement is proposed over the relevant portions of Lot 2 to provide vehicle access to Lots 1 and 3;
   - A Private Access Easement is proposed over the relevant portions of Lot 5 to provide vehicle access to Lots 4 and 6;
   - A Private Access Easement is proposed over the relevant portions of Lot 7 to provide vehicle access to Lots 6 and 8;
   - A Private Access Easement is proposed over the relevant portions of Lot 10 to provide vehicle access to Lots 9 and 11;
   - A Private Access Easement is proposed over the relevant portions of Lot 13 to provide vehicle access to Lots 12 and 14;
   - A 10-foot wide private access easement is proposed over Lots 8 and 9 to provide pedestrian access from NW Wilson Street to the Private Alley Tract (Tract A);

The vehicle access easements shall allow shared use of those areas for all of the purposes that a driveway would be typically used for. Note, these easements are not required but instead proposed by Applicant. Applicant may choose not to provide them on the plat.

5. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition B.9 and B.10 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "*A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records.*"

B. The following must occur prior to Final Plat approval:

1. Applicant shall meet the requirements of the City Engineer for right-of-way improvements along the Subject Property's NW 30th Avenue and NW Wilson street frontages. Applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.

2. Applicant shall submit an application for a Site Development Permit for construction of the private alley and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibit C.5 and the Private Street Administrative Rule. The engineer's design must demonstrate how the design maintains safety with a speed limit that does not exceed 15 miles per hour; e.g. the use of traffic calming measures.

3. Applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private alley and all required site development improvements. Applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.

4. Applicant must complete the following related to the construction of public stormwater facilities within the Subject Property's frontages to the satisfaction of the Bureau of Environmental Services: (1) through the Public Works Permit submit approved engineered plans, (2) provide a financial guarantee, (3) pay all outstanding fees, and (4) provide a signed permit document.

5. Applicant is required to construct a sanitary or combined sewer to provide service to the proposed development. Prior to final plat approval, Applicant must complete one of the following to the satisfaction of the Bureau of Environmental Services:

    a. Through a Public Works Permit, submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document.
    b. Construct the public sewer and pay associated fees under a Bureau of Environmental Services Simplified Permit.

6. Applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. Applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior to final plat approval.

7. Applicant must meet the requirements of the Fire Bureau for providing an adequate fire accessway for Lots 1-14, as required in Chapter 5 of the Oregon Fire Code. Alternately, Applicant will be required to install residential sprinklers in the new houses on Lots 1-14, if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on, and recorded with, the final plat if the exception is used.

8. Applicant must obtain permit, and finalize such permit, for the decommissioning of any on-site sewage disposal system (if one is discovered to exist) on the Subject Property with a completed Disclaimer for Existing On-site Sewage Disposal System, prior to final plat approval.

9. Applicant shall execute a Maintenance Agreement for the private alley tract described in Condition A.3 above. The agreement shall assign common, undivided ownership of the tract to the owners of Lots 1-14 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement shall also include provisions allowing access for adjacent development subject to explicit approval from the City of Portland, per condition C.8. The agreement must also acknowledge all easements granted within the street tract, the beneficiaries of those easements, and the limitations on the easement areas to the satisfaction of the beneficiary service agencies. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services and approved as to form prior to final plat approval.

10. Maintenance Agreements shall be executed for Private Access easements described in Condition A.4 above, if shown on the Final Plat. The agreements shall include provisions assigning maintenance responsibilities for the easement areas and any shared facilities within those areas, consistent with the purpose of the easement, and all applicable City

Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services and approved as to form prior to final plat approval.

C. The following conditions are applicable to site preparation and the development of individual lots:

1. Development on Lots 1 through 14 must be setback from the NW Wilson Street front property line as follows:

    - Lots 3-6 and 9-14: at least 10-feet
    - Lots 1 and 8: at least 13-feet
    - Lots 2, 7, 10, and 13: exactly 8-feet
    - The setbacks from NW Wilson for Lots 3-6 and 9-14 shall be at least 3-feet different from the setbacks from NW Wilson for Lots 1 and 8.

2. The following requirements shall apply to development on Lots 1 through 14:

    - Building length shall not exceed 120 feet and 160 feet respectively on each of the property clusters.
    - One 10-foot break shall be provided between the two rowhome clusters with a minimum break width of 10 feet and a minimum break depth of 30 feet.
    - Garage entry shall not be off NW Wilson Street; garages shall be accessed from the rear private alley tract.
    - Main entrance. Homes will have a main entrance elevated at least three feet from the street. Stairs will access the main entrance.
    - Façade. The main door of the front of the townhome shall be recessed from the front elevation by a minimum of three feet.
    - Windows. At least 20 percent of each home's front façade must be windows, French doors, sliding balcony doors, or main entrance doors. Windows used to meet this standard must allow views from the building to the street. Glass block does not meet this standard.

3. The minimum and maximum density for Lots 1-14 is one unit. Accessory dwelling units do not count toward maximum density and may be added to any attached house. Lot 1 must be developed with an Accessory Dwelling Unit.

4. The first lift of asphalt paving or the entire Portland concrete street section of the private alley must be installed prior to issuance of any permits for residential construction.

5. Prior to finalizing the Site Development permit for the private alley, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.

6. Applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

7. If required, Applicant shall meet any requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling units on Lots 1-14. Please refer to the final plat approval report for details on whether or not this requirement applies.

Greg Frank

Gregory J. Frank, Hearings Officer

July 25, 2019

Date

Application Determined Complete:	February 8, 2019
Staff Report to Hearings Officer:	March 22, 2019
Revised Staff Report to Hearings Officer:	July 1, 2019
Decision Mailed:	July 25, 2019
Last Date to Appeal:	4:30 p.m., August 8, 2019
Effective Date (if no appeal):	August 9, 2019

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

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

Appeal of the decision. ANY APPEAL OF THE HEARINGS OFFICER'S DECISION MUST BE FILED AT 1900 SW 4TH AVENUE, PORTLAND, OREGON 97201. Appeals can be filed at the 5th floor reception desk, Monday through Friday between 8:00 a.m. and 4:30 p.m. **An appeal fee of $5,000.00 will be charged (one-half of the application fee for this case, up to a maximum of $5,000.00).**

Information and assistance in filing an appeal can be obtained from the Bureau of Development Services at the Development Services Center.

Who can appeal: You may appeal the decision only if you wrote a letter which is received before the close of the record on hearing or if you testified at the hearing, or if you are the property owner or applicant. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Appeal Fee Waivers: Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**
Recording concurrent approvals.

If the preliminary land division approval also contains approval of other land use decisions (examples include adjustments, conditional uses, and environmental reviews), these other approvals will be recorded with the Multnomah County Recorder.

- *Unless appealed,* the final decision will be recorded by BDS.

The Applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder. For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of concurrent approvals. The preliminary land division approval also includes a concurrent Adjustment. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application. The Adjustment was voluntarily included with this application. If this concurrent review can be approved, it will expire three years from the date rendered, unless a building

permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement
   1. Land division approval criteria narrative (12/28/18)
   2. Adjustment approval criteria narrative (12/28/18)
   3. Additional narrative addressing land division approval criteria (2/8/19)
   4. Supplemental narrative in support of building length adjustment (2/4/19)
   5. Second supplemental narrative in support of land division (subdivision) and associated building length adjustment application (3/6/19)
   6. Geotechnical report
   7. Transportation study
   8. Preliminary drainage report (11/7/18)
   9. Preliminary drainage report w/ memo (2/8/19)
   10. Preliminary drainage report (3/8/19)
   11. Fire flow
   12. Email from Mike Rushing to Noel A Johnson
   13. Operating agreement of Cairn Pacific Properties 7 LLC
   14. Amended and restated operating agreement of Cairn Pacific Holdings II LLC
   15. Title report
   16. Neighborhood contact
   17. Request for extension of 120-day review period
B. Zoning Map **(attached)**
C. Plans and Drawings
   1. Existing conditions plan **(attached)**
   2. Preliminary land division plat **(attached)**
   3. Proposed improvements and utility plan **(attached)**
   4. Preliminary clearing and grading plan **(attached)**
   5. Typical sections
   6. Car turning 1 of 2
   7. Car turning 2 of 2
   8. Existing conditions survey
   9. Original site plans
D. Notification information
   1. Request for response
   2. Posting letter sent to applicant
   3. Notice to be posted
   4. Applicant's statement certifying posting
   5 Mailing list
   6 Mailed notice
E. Agency Responses
   1. Bureau of Environmental Services

2. Bureau of Transportation Engineering and Development Review
3. Water Bureau
4. Fire Bureau
5. Site Development Review Section of Bureau of Development Services
6. Bureau of Parks, Forestry Division
7. Life Safety Plans Examiner

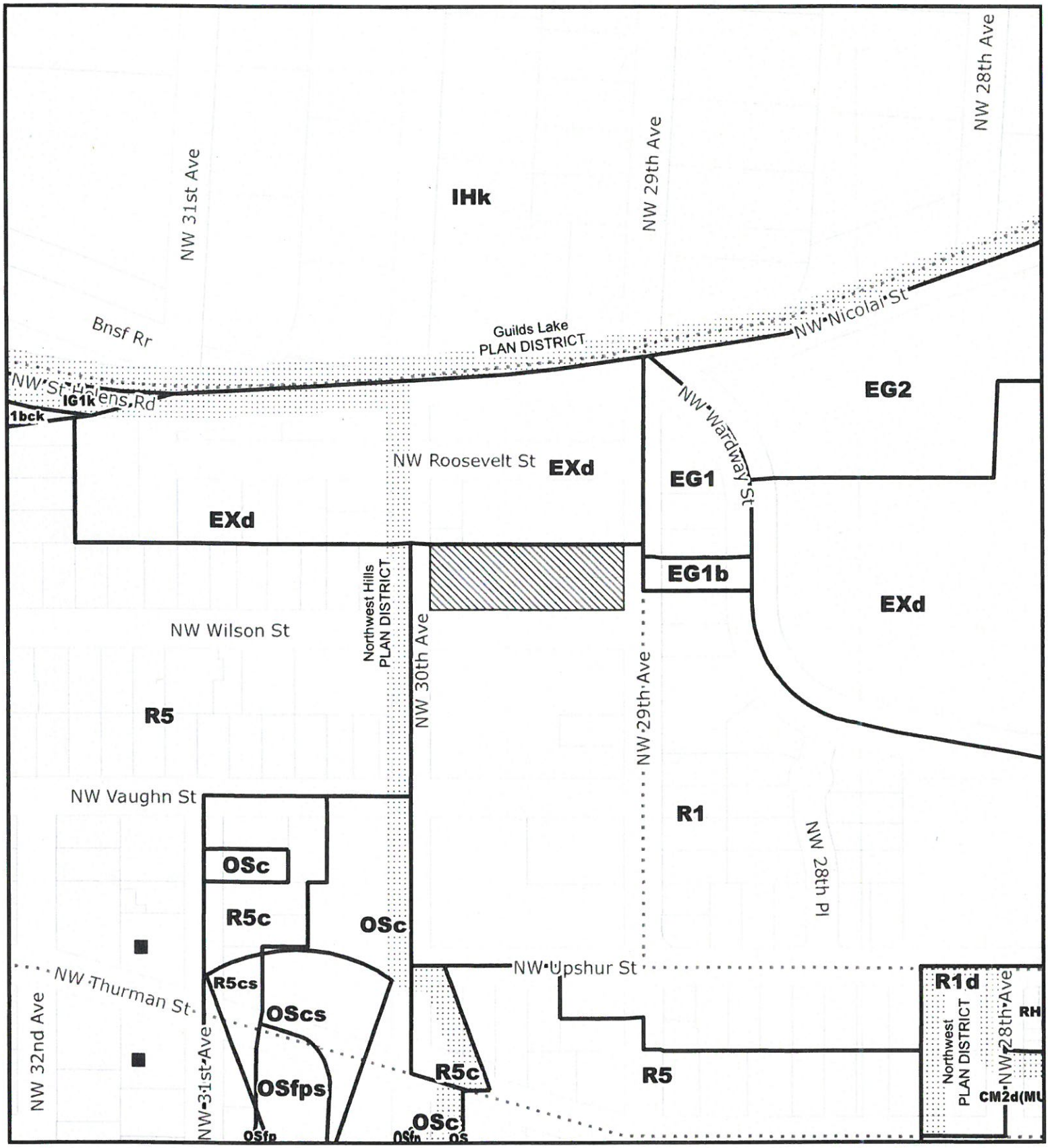
F. Letters
1. Northwest District Association (2/11/19)
2. Robert A Hinnen, Cairn Pacific Holdings II LLC (2/4/19)

G. Other
1. Original LUR Application
2. Incomplete letter

H. Received in the Hearings Office
1. Hearing Notice - Williams, Sean
2. Staff Report - Williams, Sean
3. PowerPoint presentation printout - Williams, Sean
4. 3/31/19 Email from Mary Polites - Williams, Sean
5. 3/29/19 Letter from David J. Petersen/Tonkon Torp (2 pages) - Williams, Sean
6. Emails between Noel Johnson and Jamie Bradley - France, Renee
7. Emails between Jake Wiser, Bob Haley, & Zef Wagner (5 pages) - France, Renee
8. Plans (12 pages) - France, Renee
9. Request for Extension of 120-Day Review Period - Williams, Sean
10. Record Closing Information - Hearings Office
11. Cover Sheet with attachments - Faster Permits,
    a. 6/17/19 Memo from Sarah Radelet/Strata Land Use Planning - Faster Permits,
    b. BDS Appeal Summary - Faster Permits,
    c. 6/17/19 Adjustment Narrative - Faster Permits,
    d. Building Footprint Plan - Faster Permits,
    e. Emails - Faster Permits,
    f. 4/2/19 Emails - Faster Permits,
    g. Building Footprint Plan - Faster Permits,
    h. Renderings (2 pages) - Faster Permits,
12. 6/26/19 letter from Sarah Radelet with attachments - Faster Permits,
    a. Building Footprint Plan - Faster Permits,
    b. Building Footprint Plan (full size) - Faster Permits,
13. 7/1/19 Letter from David J. Petersen - Williams, Sean
    a. 6/26/19 Email, Petersen to Renee M. France - Williams, Sean
14. 7/1/19 Memo - Williams, Sean
    a. Revised Staff Report - Williams, Sean
    b. 6/26/19 Memo from Sarah Radelet - Williams, Sean
    c. Building Footprint Plan - Williams, Sean
    d. 6/17/19 Memo from Radelet - Williams, Sean
    e. Appeal Summary - Williams, Sean

f. Emails - Williams, Sean
g. 4/2/19 Emails - Williams, Sean
h. 6/17/19 Adjustment Narrative - Williams, Sean
i. Building Footprint Plan - Williams, Sean
j. Wilson Townhouses Rendering - Williams, Sean
k. Early Assistance Application - Williams, Sean

15. 7/1/19 Letter - France, Renee
    a. Amended letter - France, Renee
16. 7/8/19 Memo - Radelet, Sarah



ZONING

NORTH

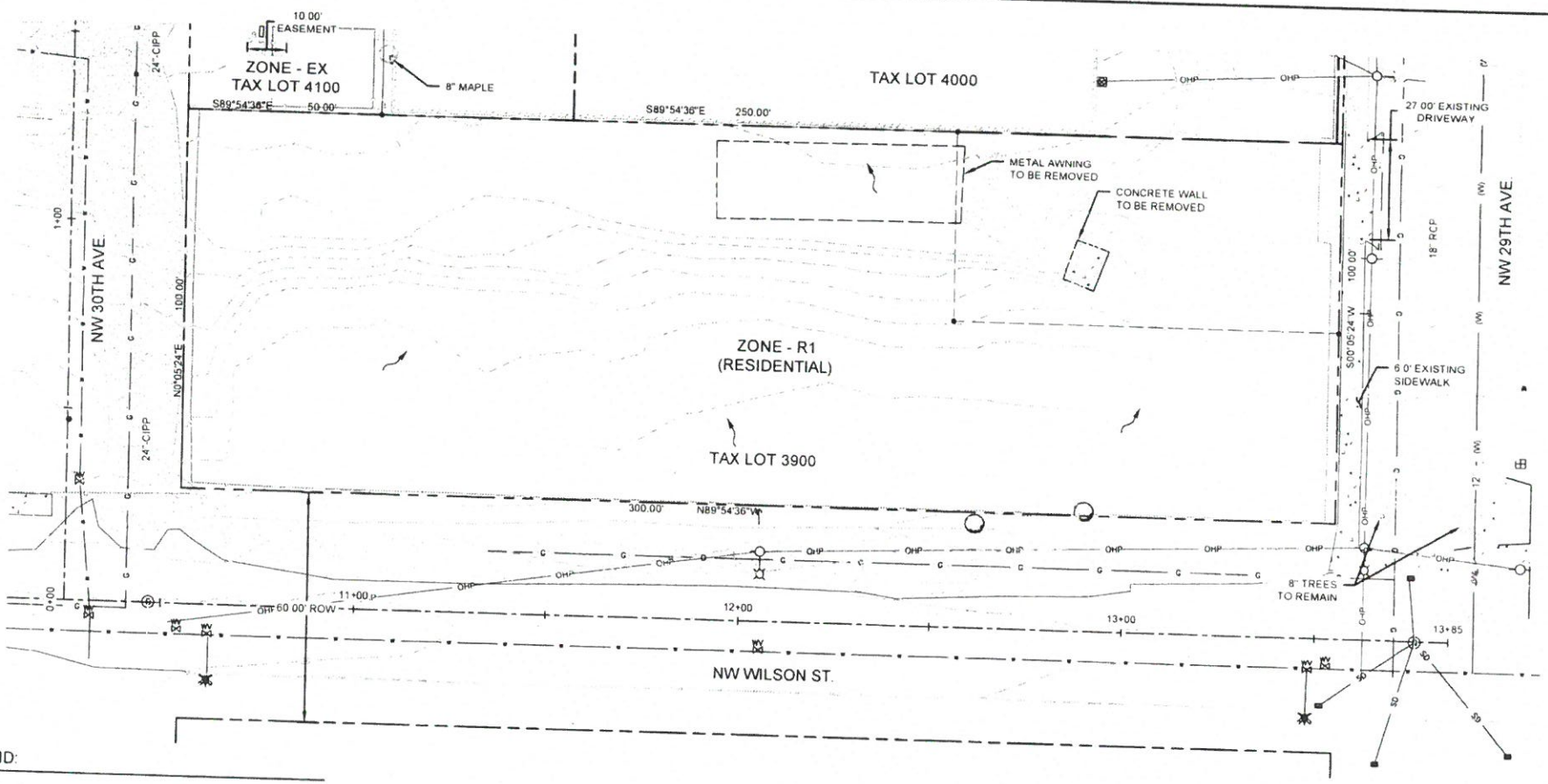
Site

Historic Landmark

Recreational Trails

File No.	LU 18-283588 LDS AD
1/4 Section	2826
Scale	1 inch = 200 feet
State ID	1N1E29DB 3900
Exhibit	B Jan 02, 2019

CASE NO. 18-283584
EXHIBIT 1.7



LEGEND:

	EXISTING MAJOR CONTOUR
	EXISTING MINOR CONTOUR
OHP	EXISTING OVERHEAD POWER LINE
(SD)	EXISTING STORM LINE (ASSUMED)
SD	EXISTING STORM LINE
	EXISTING PROPERTY LINE
	EXISTING FENCE
FO	EXISTING FIBER OPTIC
(FO)	EXISTING TELECOMMUNICATIONS LINE
W	EXISTING WATER
(W)	EXISTING (ASSUMED) WATER
SS	EXISTING SANITARY SEWER
G	EXISTING GAS
	EXISTING EDGE OF CONCRETE
COMBO	COMBINED SANITARY/STORM LINE
(COMBO)	COMBINED SANITARY/STORM LINE (ASSUMED)
	CENTER LINE
	LIGHT POST/FIXTURE
	POWER POLE
	EXISTING CONCRETE PAVEMENT
	EXISTING BUILDING
	FLOW ARROW
	STORM MANHOLE
	FIRE HYDRANT
	WATER VALVE
	GAS VALVE
	WATER METER

HORIZONTAL DATUM (BASIS OF BEARINGS):

OREGON NORTH STATE PLANE COORDINATE SYSTEM NAD 83(2011)(EPOCH2010.00)
BASED ON BASED ON STATIC GNSS OBSERVATIONS PROCESSED THROUGH NATIONAL GEODETIC SURVEY(NGS) ONLINE POSITIONING USER SERVICES (OPUS) AND ADJUSTED BY LEAST SQUARES METHOD IN TRIMBLE BUSINESS CENTER.

DISTANCES SHOWN HEREON ARE GROUND DISTANCES, INTERNATIONAL FEET. SCALED ABOUT CONTROL POINT NO 5. TO CONVERT TO GRID DISTANCES MULTIPLY BY THE COMBINED FACTOR OF 0.999916850

VERTICAL DATUM:

CITY OF PORTLAND DATUM
BASED ON TIES TO CITY OF PORTLAND BENCHMARK 2635.
PUBLISHED ELEVATION: 158.465'

NOTES:

1. THE LOCATION OF EXISTING UNDERGROUND UTILITY FACILITIES SHOWN HEREON ARE BASED ON DATA PROVIDED TO S&F LANDS SERVICES BY THE CLIENT. S&F LAND SERVICES DID NOT REQUEST PUBLIC LOCATE MARKS AS A SCOPE OF THIS PROJECT.
2. FIELD WORK WAS COMPLETED ON AUGUST 21, 2018
3. PER OF CITY OF PORTLAND GIS PORTIONS OF THE SEWER SYSTEM ARE A COMBINED SANITARY AND STORM SEWER SYSTEM.
4. BOUNDARY LINES SHOWN HEREON ARE PER FOUND MONUMENTS AS SHOWN PARTITION PLAT 2018-40, MULTNOMAH COUNTY SURVEY RECORDS.
5. TOPOGRAPHIC DATA SHOWN HEREON IS A COMBINATION OF DATA COLLECTED BY S&F LAND SERVICES AND DATA PROVIDED TO S&F LAND SERVICE BY CLIENT.
6. INVERT ELEVATIONS SHOWN HEREON ARE PER DATA PROVIDED TO S&F LAND SERVICES. S&F LAND SERVICES DID NOT VERIFY THESE DEPTHS.

N

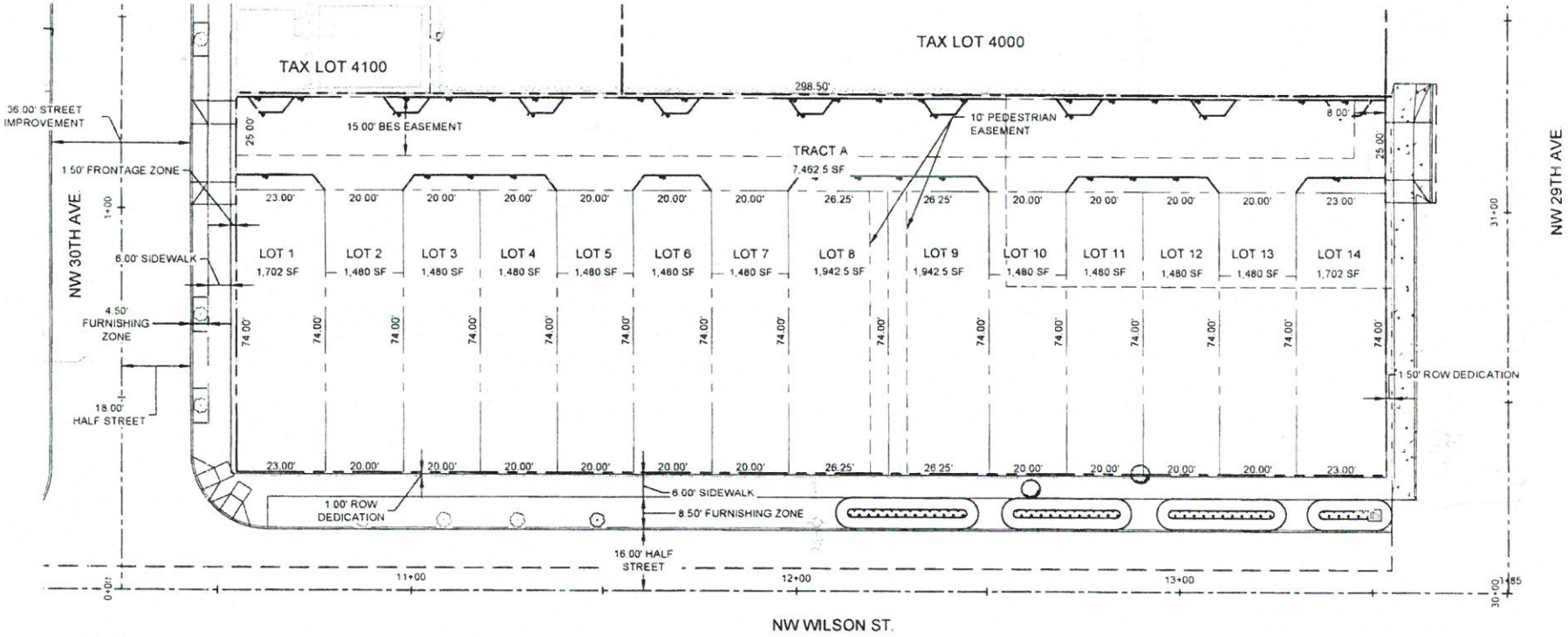
20 0 2
SCALE IN FEET

DOWL
720 SW Washington Street #750
Portland, Oregon 97205
911-280-8641

NORTHBOUND
CAIRN PACIFIC
EXISTING CONDITIONS PLAN
PORTLAND, OR

PROJECT
DATE

EXISTIN



CASE NO. 18-283584

LEGEND:

- EXISTING PROPERTY LINE
- PROPOSED PROPERTY LINE
- PROPOSED LOT LINE
- CENTER LINE
- PROPOSED EASEMENT

HORIZONTAL DATUM (BASIS OF BEARINGS):

OREGON NORTH STATE PLANE COORDINATE SYSTEM NAD 83(2011)(EPOCH2010.00)
BASED ON BASED ON STATIC GNSS OBSERVATIONS PROCESSED THROUGH NATIONAL GEODETIC SURVEY(NGS) ONLINE POSITIONING USER SERVICES (OPUS) AND ADJUSTED BY LEAST SQUARES METHOD IN TRIMBLE BUSINESS CENTER

DISTANCES SHOWN HEREON ARE GROUND DISTANCES, INTERNATIONAL FEET, SCALED ABOUT CONTROL POINT NO 5. TO CONVERT TO GRID DISTANCES MULTIPLY BY THE COMBINED FACTOR OF 0.999916850.

VERTICAL DATUM:

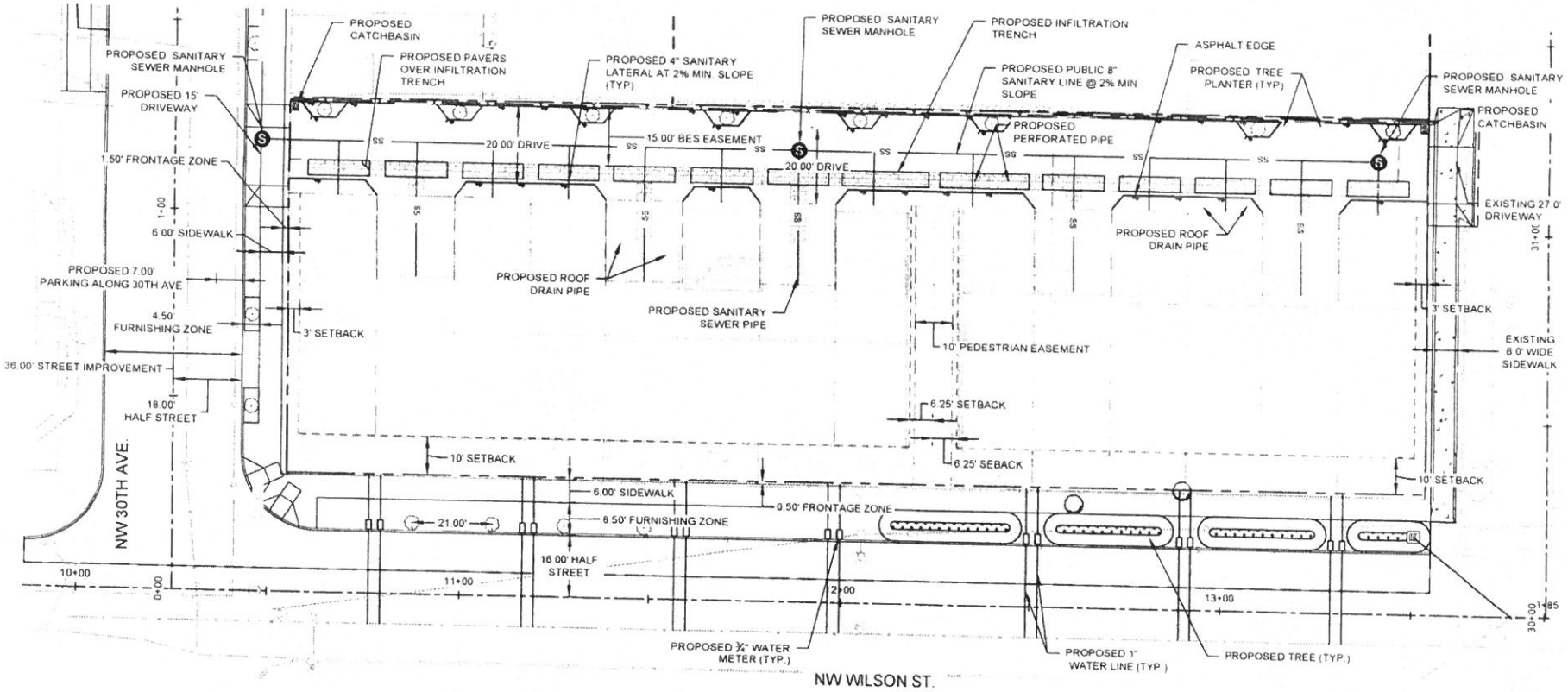
CITY OF PORTLAND DATUM
BASED ON TIES TO CITY OF PORTLAND BENCHMARK 2635.
PUBLISHED ELEVATION: 158.465'

DOWL
720 SW Washington Street, #750
Portland, Oregon 97205
971-280-8641

NORTHBOUND
CAIRN PACIFIC
PRELIMINARY LAND DIVISION PLAN (PLAT)
PORTLAND, OR

PROJECT
DATE

PLAT



CASE NO. 18-281584

LEGEND:

- EXISTING PROPERTY LINE
- PROPOSED PROPERTY LINE
- PROPOSED EASEMENT
- CENTER LINE
- EXISTING OVERHEAD POWER LINE
- EXISTING STORM LINE
- EXISTING FENCE
- EXISTING FIBER OPTIC
- EXISTING TELECOMMUNICATIONS LINE
- EXISTING WATER
- EXISTING (ASSUMED) WATER
- EXISTING SANITARY SEWER
- EXISTING GAS
- EXISTING EDGE OF CONCRETE
- COMBINED SANITARY/STORM LINE
- COMBINED SANITARY/STORM LINE (ASSUMED)
- LIGHT POST
- LIGHT FIXTURE
- EXISTING CONCRETE PAVEMENT
- EXISTING BUILDING
- SS — PROPOSED SANITARY SEWER LINE
- W — PROPOSED WATER LINE
- PROPOSED WATER METER
- STORM MANHOLE
- FIRE HYDRANT
- WATER VALVE
- GAS VALVE
- WATER METER

HORIZONTAL DATUM (BASIS OF BEARINGS):

OREGON NORTH STATE PLANE COORDINATE SYSTEM NAD 83(2011)(EPOCH2010.00)
BASED ON BASED ON STATIC GNSS OBSERVATIONS PROCESSED THROUGH NATIONAL GEODETIC SURVEY(NGS) ONLINE POSITIONING USER SERVICES (OPUS) AND ADJUSTED BY LEAST SQUARES METHOD IN TRIMBLE BUSINESS CENTER.

DISTANCES SHOWN HEREON ARE GROUND DISTANCES, INTERNATIONAL FEET, SCALED ABOUT CONTROL POINT NO 5. TO CONVERT TO GRID DISTANCES MULTIPLY BY THE COMBINED FACTOR OF 0.999916850

VERTICAL DATUM:

CITY OF PORTLAND DATUM
BASED ON TIES TO CITY OF PORTLAND BENCHMARK 2635.
PUBLISHED ELEVATION 158.465'

STORMWATER APPROACH:

STORMWATER CALCULATIONS ARE BEING PERFORMED TO DETERMINE EXACT APPROACH.

NOTES:

1. THE LOCATION OF EXISTING UNDERGROUND UTILITY FACILITIES SHOWN HEREON ARE BASED ON DATA PROVIDED TO S&F LANDS SERVICES BY THE CLIENT. S&F LAND SERVICES DID NOT REQUEST PUBLIC LOCATE MARKS AS A SCOPE OF THIS PROJECT.
2. FIELD WORK WAS COMPLETED ON AUGUST 21, 2018.
3. PER OF CITY OF PORTLAND GIS PORTIONS OF THE SEWER SYSTEM ARE A COMBINED SANITARY AND STORM SEWER SYSTEM.
4. BOUNDARY LINES SHOWN HEREON ARE PER FOUND MONUMENTS AS SHOWN PARTITION PLAT 2018-40, MULTNOMAH COUNTY SURVEY RECORDS.
5. TOPOGRAPHIC DATA SHOWN HEREON IS A COMBINATION OF DATA COLLECTED BY S&F LAND SERVICES AND DATA PROVIDED TO S&F LAND SERVICE BY CLIENT.
6. INVERT ELEVATIONS SHOWN HEREON ARE PER DATA PROVIDED TO S&F LAND SERVICES. S&F LAND SERVICES DID NOT VERIFY THESE DEPTHS.

TOWNHOME ELEV:

GARAGE	48'-0"
FIRST FLOOR	58'-0"
SECOND FLOOR	69'-0"
LOFT/ATTIC	79'-0"

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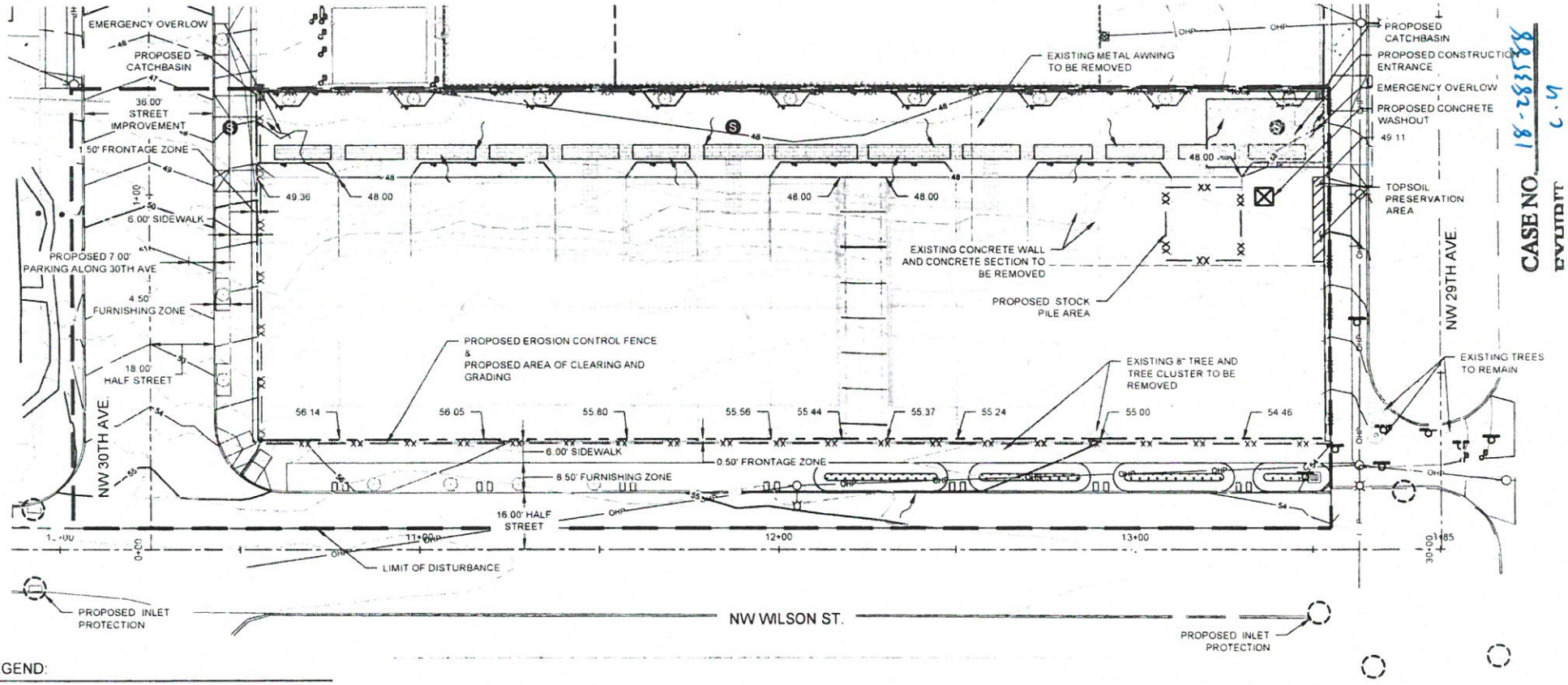
SCALE IN FEET

DOWL
www.DOWL.com
720 SW Washington Street, #750
Portland, Oregon 97205
971-280-8841

NORTHBOUND
CAIRN PACIFIC
PROPOSED IMPROVEMENTS & UTILITY PLAN
PORTLAND, OR

PROJECT
DATE
PROPO



CASE NO. 18-283582-81
EXHIBIT C.4

LEGEND:

- EXISTING PROPERTY LINE
- PROPOSED PROPERTY LINE
- PROPOSED EASEMENT
- CENTER LINE
- EXISTING MAJOR CONTOUR
- EXISTING MINOR CONTOUR
- 181 — PROPOSED MAJOR CONTOUR
- 180 — PROPOSED MINOR CONTOUR
- XX — XX — PROPOSED CONCRETE EDGE
- PROPOSED SEDIMENT FENCE
- EXISTING CONCRETE EDGE
- LIGHT POST
- LIGHT FIXTURE
- EXISTING CONCRETE PAVEMENT
- EXISTING BUILDING
- EXISTING DECIDUOUS TREE
- EXISTING CONIFEROUS TREE
- EXISTING DRAINAGE ARROW
- PROPOSED DRAINAGE ARROW
- PROPOSED INLET PROTECTION
- PROPOSED ECOPAN CONCRETE WASHOUT
- XX.XX — FINISH SURFACE GRADE
- STORM MANHOLE
- FIRE HYDRANT
- WATER VALVE
- GAS VALVE
- WATER METER

HORIZONTAL DATUM (BASIS OF BEARINGS):

OREGON NORTH STATE PLANE COORDINATE SYSTEM NAD 83(2011)(EPOCH2010.00)
BASED ON BASED ON STATIC GNSS OBSERVATIONS PROCESSED THROUGH NATIONAL GEODETIC SURVEY(NGS) ONLINE POSITIONING USER SERVICES (OPUS) AND ADJUSTED BY LEAST SQUARES METHOD IN TRIMBLE BUSINESS CENTER.

DISTANCES SHOWN HEREON ARE GROUND DISTANCES, INTERNATIONAL FEET, SCALED ABOUT CONTROL POINT NO 5. TO CONVERT TO GRID DISTANCES MULTIPLY BY THE COMBINED FACTOR OF 0.999916850.

VERTICAL DATUM:

CITY OF PORTLAND DATUM
BASED ON TIES TO CITY OF PORTLAND BENCHMARK 2635.
PUBLISHED ELEVATION: 158.465'

NOTES:

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DISTURBED AREA:

PROPOSED VOLUME OF AREA TO BE DISTURBED*	3,300 CU YD
PROPOSED AREA TO BE CLEARED AND GRADED	30,000 SF

*DOES NOT INCLUDE PUBLIC IMPROVEMENT AREAS.

TOPSOIL PRESERVATION AREA:

PROPOSED AREA OF TOPSOIL PRESERVATION	75 SF*

*AREAS IN THE 3' SETBACK ZONE ON THE EAST AND WEST PROPERTY LINE WILL BE PRESERVED IN PLACE. HOWEVER DUE TO THE VARIATION OF THE PUBLIC SIDEWALK GRADE, TOPSOIL WILL BE ADDED OVER THE EXISTING TOPSOIL TO MATCH PROPOSED SIDEWALK GRADES.

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SCALE IN FEET

DOWL
www.dowl.com
720 SW Washington Street #750
Portland, Oregon 97205
971.280.8641

NORTHBOUND
CAIRN PACIFIC
PRELIMINARY CLEARING & GRADING PLAN
PORTLAND, OR

PROJECT
DATE 02/0

GRADING