



## Hearings Office

### City of Portland

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## DECISION OF THE HEARINGS OFFICER

### I. GENERAL INFORMATION

**File Number:** LU 19-232888 CU (Hearings Office 4200003)

**Applicant:** Peter Finley Fry  
303 NW Upton Terrace #1B  
Portland, OR 97210

**Property Owner:** Columbia Watumull  
307 Lewers Street #600  
Honolulu, HI 96815-2357

**Property Manager:** Bruce Soihr  
Norris & Stevens  
900 SW 5th Avenue, Suite 1700  
Portland, OR 97204

**Hearings Officer:** Gregory Frank

**Bureau of Development Services ("BDS") Staff Representative:** Amanda Rhoads

**Site Address:** 2201-2207 NE Columbia Boulevard

**Legal Description:** TRACT TL 400 ACRES 4.69 DEFERRED ADDITIONAL TAX LIABILITY,  
SECTION 14 1N 1E

**Tax Account Number:** R941141460

**State ID Number:** 1N1E14AA 00400

**Quarter Section:** 2232, 2332

**Neighborhood:** Sunderland

**Business District:** Columbia Corridor Association

**District Coalition:** Central Northeast Neighbors

**Plan District:** None

**Zoning:** IG2h,k – General Industrial 2, with “h” Aircraft Landing Overlay Zone and “k” Prime Industrial Overlay Zone

**Land Use Review:** Type III, CU, Conditional Use Review

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

**Public Hearing:** The hearing was opened at 1:30 p.m. on February 19, 2020, in the third floor hearing room, 1900 SW 4<sup>th</sup> Avenue, Portland, Oregon, and was closed at 2:33 p.m. The record was closed at the end of the hearing.

**Testified at the Hearing:**

Amanda Rhoads  
Bruce Soihl  
Peter Finley Fry  
Tony Hopson  
Libra Forde

**II. ANALYSIS**

**Proposal:**

Self Enhancement, Inc. (“SEI”) is a non-profit organization dedicated to guiding underserved youth to realize their full potential, headquartered at the Center for Self Enhancement in Unthank Park in North Portland. SEI desires to launch a new program, in an existing building in an industrial zone, for the purpose of connecting nearby industrial firms with potential employees drawn from the client base of SEI.

On behalf of SEI, land use consultant Peter Finley Fry (“Applicant”) requested City approval to occupy a portion of the east building on the property described in the legal description, site address, Tax Account Number, and State ID Number sections above (the “Subject Property”) in order to establish the new SEI program to connect underserved youth with industrial businesses in the area. The specific portions of the Subject Property addressed in this decision are shown on Exhibits C.2 and C.3. The proposal would encompass roughly 10,266 square feet of the first floor of the east building, as well as 17,256 square feet of the second floor. Expansion into the second level is framed as a second phase of the project, though the Applicant requested approval for both levels, and the resulting increase in intensity of use, at this time. The two buildings share 159 parking spaces onsite. The Applicant’s proposal is classified as a Community Service use.

SEI intends to use the Subject Property to develop industrial contracting opportunities for their clients such as flagging and truck driving/delivery services. The use of the building is separated into roughly two shifts, with up to two special events proposed per year:

- Up to 32 employees would work out of the Subject Property at one time between 7:00 a.m. and 5:00 p.m. Monday through Friday. The number of clients or industrial partner prospects expected on the Subject Property at any one time is up to 15.
- The Subject Property would also host trainings in the evenings between 6:00 p.m. and 10:00 p.m., and on Saturdays between 10:00 a.m. and 8:00 p.m. The number of employees expected onsite during these times would be up to 18, with up to 82 clients at one time. However, since the number of clients SEI proposed to seek industrial job employment is proposed to be around 100 at a time, it is not likely this higher number would be onsite every evening and each Saturday.
- Finally, SEI proposed a yearly job fair on a Saturday that would host up to 182 clients and industrial prospects with support by up to 48 staff members. With the expected expansion into the second floor of the building, it is expected that this fair would be hosted two times yearly.

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

- **33.815.125, Specified Uses in Industrial Zones**

**Site and Vicinity:** The approximately 4.7-acre Subject Property is located at the northeast corner of NE Columbia Boulevard and NE 21<sup>st</sup> Avenue. The Subject Property is developed with two buildings on top of a podium level. The buildings, due to the slope of the Subject Property, appear to be two stories in height when viewed from NE Columbia Boulevard and three stories in height when viewed from the west or north. The upper two floors of the buildings are suitable for office uses, while the lowest floor, accessed from NE Argyle Street, is composed primarily of loading bays and is suitable for warehouse uses.

NE 21<sup>st</sup> Avenue is a Local Service Bikeway and Walkway, a Minor Emergency Response Street, Local Service Traffic Street, and a Transit Access Street. NE Columbia Boulevard is a Local Service Bikeway, City Walkway, a Major Emergency Response Street, Major City Traffic Street, and a Transit Access Street. NE Argyle Street is a Local Service Bikeway and Walkway, a Minor Emergency Response Street, and a Local Service Traffic and Transit Street. The Subject Property and surrounding area are within a Freight District.

**Zoning:** The General Industrial 2 (IG2) zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. The intent is to promote viable and attractive industrial areas. IG2 areas generally have larger lots and an irregular or large block pattern. The area is less developed with sites having medium and low building coverage and

buildings which are usually set back from the street. Minimum lot area is between 10,000 and 20,000 square feet.

The Aircraft Landing Zone "h" overlay provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. A height contour map is available for review in the Development Services Center.

The Prime Industrial Overlay Zone "k" is to be applied to all land designated as Prime Industrial in the Comprehensive Plan except for land that is zoned Open Space. The purposes of the Prime Industrial overlay zone are to protect land that has been identified in the Comprehensive Plan as Prime Industrial, and to prioritize these areas for long-term retention. Prime Industrial Land is suited for traded-sector and supportive industries and possesses characteristics that are difficult to replace in the region. In Portland, Prime Industrial land consists of the Portland Harbor, Columbia Corridor, and Brooklyn Yard industrial districts. These freight-hub districts include Oregon's largest seaport, rail hub, and airport. Existing and potential multimodal freight access in these districts support interregional transport, exporting industries, and associated industrial businesses and activities. The regulations protect these areas by preventing, or requiring an off-set for, conversion of the land to another zone or use that would reduce industrial development capacity.

**Land Use History:** City records indicate that prior land use reviews on the Subject Property include the following:

- LU 09-110935 CU: Approval of an expansion of an existing Multnomah County parole/probation office into the second floor of the east building; it was already operating on the first floor. The use is no longer there and the space it had occupied is the same space that the Applicant for this current review is requesting to use.
- CU 022-82 (LU 82-001163): Approval of a Conditional Use Review to legalize a restaurant to serve the existing offices and industrial uses in the area.
- PC 5571 (LU 90-023811): Planning Commission initiation of City zoning for an annexed area. No further information is available.

**Agency Review:** A "Request for Response" was mailed January 29, 2020. The following Bureaus have responded:

- The Bureau of Environmental Services ("BES") noted no changes are proposed to the existing building that would trigger BES stormwater requirements. BES has no issues related to the approval criteria for this Conditional Use Review (Exhibit E.1).
- The Bureau of Transportation ("PBOT") reviewed the Applicant's Transportation Impact Study and provided findings for criteria 33.815.125.A and B, reproduced below. PBOT required no conditions of approval for support of the Conditional Use application (Exhibit E.2).

- The Water Bureau noted no concerns with the proposal (Exhibit E.3).
- The Fire Bureau noted a separate building permit is required for the proposal, at which time all Fire Code requirements would apply (Exhibit E.4).
- The Site Development Section of BDS provided information about the Subject Property topography and noted additional information that might be required at time of building permit (Exhibit E.5).
- The Bureau of Parks Urban Forestry Division indicated they did not object to approval of the proposal and noted tree requirements that will be reviewed at time of permit (Exhibit E.6).
- The Life Safety (Building Code) Plans Examiner noted a building permit is required to change the occupancy or use a building, and that Life Safety Plan Review does not object to the approval of the proposal (Exhibit E.7).
- The Police Bureau determined it would be able to continue to provide services to the Subject Property under the new proposal and requested no conditions of approval (Exhibit E.8).

**Neighborhood Review:** No written responses were received into the public record of this case from either the Neighborhood Association or notified property owners or residents in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

### Conditional Uses

#### 33.815.010 Purpose

Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

#### 33.815.125 Specified Uses in Industrial Zones

These approval criteria apply for uses in the following categories in the industrial zones: Retail Sales and Service, Office, Commercial Outdoor Recreation, Commercial Parking Facilities, Community Service, and Daycare uses. Office uses in the IG1 zone in the Lower Albina Subdistrict of the Central City Plan District may use the approval criteria listed in 33.815.126: Office Uses in the IG1 Zone in the Lower Albina Subdistrict, if they contain characteristics of manufacturing businesses. Office uses in individually listed structures on the National Register of Historic Places and structures identified as contributing to the historic significance of a Historic District or a Conservation District in the I zones in the Central City Plan District may use the criteria listed in 33.815.129, Office Uses in Specified Historic Resources in the Industrial

Zones in the Central City Plan District. These approval criteria promote preservation of land for industry while allowing other uses when they are supportive of the industrial area or not detrimental to the character of the industrial area. The approval criteria are:

- A. The proposed use will not have significant adverse effects on nearby industrial firms, and on truck and freight movement;

**Findings:** PBOT reviewed the application, including the provided Transportation Impact Study (Exhibits A.5 and A.6) and submitted the following response (Exhibit E.2):

*"The proposed use will have very similar vehicle trip rates to the previous office use. Existing traffic volumes in the immediate area are only about 20% freight. The proposed use will not have any detrimental impacts on freight movement."*

Based on the above-quoted PBOT statement and BDS staff's recommendation (Exhibit H.2 – the "Staff Report") about impacts to the industrial character of the area in criterion C, below, the Hearings Officer finds this approval criterion is met.

- B. Transportation system:

- 1. The transportation system is capable of supporting the proposed use 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; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated;

**Findings:** PBOT reviewed the application and Transportation Impact Study provided by the Applicant (Exhibits A.5 and A.6) and submitted the following response (Exhibit E.2):

***"SAFETY***

*When evaluating intersection safety, consideration is given to the total number and types of crashes occurring and the number of vehicles entering the intersection. This leads to the concept known as "crash rate," usually expressed in terms of the number of crashes occurring per one million vehicles entering the intersection (crashes/mev). Intersections having crash rates less than 1.0 crashes/mev are generally considered relatively safe, and intersections having crash rates higher than 1.0 crashes/mev may be considered for operational corrections.*

Crash data for the study area intersections were obtained from the Oregon Department of Transportation (ODOT) for January 1, 2013 through December 31, 2017. The following table represents calculated crash rates at the study intersections for the five-year data period. In calculating the crash rate, the average daily traffic (ADT) entering the intersection was estimated by multiplying the PM peak hour intersection entering volume by 10. Annual intersection entering traffic was then estimated by multiplying the ADT by 365. All crash data and crash rate calculations are attached for reference.

TABLE 1 – INTERSECTION CRASH HISTORY							
Intersection	2013	2014	2015	2016	2017	Total	Crash Rate (crashes/mev)
NE Columbia Boulevard/NE 21 <sup>st</sup> Avenue	1	4	2	1	2	10	0.25

The study area intersection crash rate is less than 1.0 crashes/mev. As such, the intersection is considered relatively safe and no further evaluation of safety deficiencies is necessary. Overall, the proposed conditional use will not significantly affect, nor have any measurable impact on, the study intersection crash rate.

**STREET CAPACITY/TRAFFIC OPERATIONS**

Based on PBOT Traffic Impact Study requirements, field measured control delay at three intersections was requested. The following summarizes these observations:

**NE Columbia Boulevard/NE 21<sup>st</sup> Avenue** – The intersection is adjacent to the southwest property corner and the subject property has access to both roadways. The intersection is signalized with separate east and westbound left-turn lanes. AM and PM peak hour intersection traffic counts were obtained and an operational level-of-service (LOS) analysis was performed using Synchro analysis software to confirm field observations. Based on analysis and field observations, the intersection operates at LOS B during the AM and PM peak hours with some temporary queuing on NE Columbia Boulevard when the signal

*is green for NE 21<sup>st</sup> Avenue traffic. Overall, the intersection has adequate operations. Synchro operation analyses are attached to the TIA for reference.*

***NE 21<sup>st</sup> Avenue/West Site Access*** – *the intersection is approximately 180 feet (measured from curb face to access centerline) north of the NE Columbia Boulevard/NE 21<sup>st</sup> Avenue intersection. While existing access use is low because of current Columbia Pacific Plaza vacancies, the access was observed to have adequate existing operations and will have adequate future operations with the conditional use.*

***NE Columbia Boulevard/East Site Access*** – *the intersection is approximately 130 feet (measured from curb face to access centerline) east of the NE Columbia Boulevard/NE 21<sup>st</sup> Avenue intersection. While existing access use is low because of current Columbia Pacific Plaza vacancies, the access was observed to have adequate existing operations and will have adequate future operations with the conditional use. It is further noted, that during the PM peak hour, westbound queues blocked the access on 2 occasions but at all other times vehicles were able to exit the parking area without experiencing excessive delays.*

*Overall, the proposed conditional use will not significantly affect the street capacity or traffic operations. Further, the proposed conditional use will not have transportation operation impacts exceeding those of allowed office uses in an industrial setting.*

#### **CONNECTIVITY**

*The proposed conditional use is located at the northeast corner of the NE Columbia Boulevard/NE 21<sup>st</sup> Avenue intersection. The property is located in a fully developed industrial and commercial area, with a fully established transportation network. The subject property has direct access to both NE Columbia Boulevard and NE 21<sup>st</sup> Avenue. It is anticipated most employees and clients will be traveling to/from the site via NE Columbia Boulevard.*

*Connectivity standards do not apply to industrial zoned lands.*

#### **TRANSIT AVAILABILITY**

*The proposed conditional use is located in an area well-served by Tri-Met bus service. Specifically, Tri-Met Route 70 provides*

*frequent service with 20-minute headways on NE 21<sup>st</sup> Avenue and NE Columbia Boulevard on weekdays and weekends.*

*In the Portland TSP NE Columbia Boulevard and NE 21<sup>st</sup> Avenue have a transit classification of Transit Access Street. As such, there is excellent access to transit.*

#### **PEDESTRIAN AND BICYCLE NETWORK AVAILABILITY**

*The proposed conditional use is located in a fully developed industrial and commercial area, with a fully established transportation network. In the Portland TSP NE Columbia Boulevard has a pedestrian classification of City Walkway and a bicycle classification of Local Service Bikeway.*

#### **ON-SITE PARKING**

*The shared parking area south of the podium/building has 159 shared parking spaces for all office uses in both the east and west buildings. The two office buildings are of similar size; therefore, each building is assumed to have a similar parking demand.*

*Based on field observation, existing parking demand is low because of current Columbia Pacific Plaza vacancies. Regardless, considering full occupancy with the proposed conditional use having an estimated peak parking demand of 65 spaces (which is less than 50% of the total parking provided), there is sufficient on-site parking to fully accommodate demand.*

#### **ON-STREET PARKING IMPACTS**

*On-street parking is available along both sides of NE 21<sup>st</sup> Avenue. Observed existing parking demand along this roadway was found to be low, in large part because adequate on-site parking is provided by adjacent land uses. There were more than 10 on-street parking spaces available adjacent to the subject property during field observations.*

*Overall, Columbia Pacific Plaza provides sufficient on-site parking to accommodate existing (allowed) and proposed conditional uses. While not anticipated to be necessary, on-street parking is also available on NE 21<sup>st</sup> Avenue to accommodate additional demand.*

#### **ACCESS RESTRICTIONS**

*The existing Columbia Pacific Plaza development has full movement access onto both NE Columbia Boulevard and NE 21<sup>st</sup> Avenue. Based on field observation, both accesses function in a safe and efficient manner. No site modifications are proposed with the land use application.*

*Overall, the proposed conditional use will not have transportation operation impacts exceeding those of allowed office uses in an industrial setting. As such, the existing site design can accommodate the proposed conditional use and no access restrictions are proposed or recommended.*

#### **NEIGHBORHOOD IMPACTS**

*The proposed conditional use is located in a fully developed industrial and commercial area, with a fully established transportation network and will not have transportation operation impacts exceeding those of allowed office uses in an industrial setting. As such, the proposed conditional use will not have any significant neighborhood impacts. As identified in this analysis, all adjacent intersections operate an acceptable LOS, there is adequate on-site parking, there is off-site parking available, and there are no identified transportation system safety issues.*

*Additionally, all office development operations occur south of the building and are internalized on-site. There will be no off-site vehicle/truck loading, there is no thru site access to the north side of the property, and operations on the south do not affect industrial operations on the north.*

#### **PEDESTRIAN, BICYCLE, AND TRANSIT CIRCULATION IMPACTS**

*The proposed conditional use is located in a fully developed industrial and commercial area, with a fully established transportation network and will not have transportation impacts exceeding those of allowed office uses in an industrial setting. As such, the proposed conditional use will not have any significant pedestrian, bicycle, or transit circulation impacts."*

Based on PBOT's analysis quoted above, the Hearings Officer finds this approval criterion is met.

2. Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and

improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements.

3. Transportation improvements adjacent to the development and in the vicinity needed to support the development are available or will be made available when the development is complete or, if the development is phased, will be available as each phase of the development is completed.

**Findings for B.2 and B.3:** PBOT reviewed the application, including the Transportation Impact Study (Exhibits A.5 and A.6) and submitted the following response (Exhibit E.2):

*"No mitigation measures for street improvements are required to meet approval criteria.*

*The proposed conditional use is located is in a fully developed industrial and commercial area, with a fully established transportation network and will not have transportation impacts exceeding those of allowed office uses in an industrial setting. As identified in this analysis, all adjacent intersections operate an acceptable LOS, there is adequate on-site parking, off-site parking is available, and there are no identified transportation system safety issues.*

*As such, the proposed conditional use will not have any transportation impacts requiring mitigation."*

Based on PBOT's analysis quoted above, the Hearings Officer finds these approval criteria to be met.

- C. The proposed use will not significantly alter the overall industrial character of the area, based on the existing proportion of industrial and non-industrial uses and the effects of incremental changes;

**Findings:** The proposal to allow a Community Service use into the first and second floors of the east building does not require any exterior alterations or improvements; therefore, the appearance of the building will not change. Prior to this proposed use, another Conditional Use was located in the east building. Conditional Use Review CU 22-82 also approved up to 25 percent of gross floor area on the Subject Property, or 25,000 square feet, whichever is less, to be used for office or retail uses that serve the industrial area. A current restaurant use is located in the east building, and two office tenants are located in the west building currently, along with an Industrial Service use

allowed outright. The podium level of the building currently hosts an industrial use. The Hearings Officer finds that there will be no loss of industrial floor area with the approval of this proposal.

The character of the IG2 zone is described in Zoning Code Sections 33.140.030.C and C.2:

***"33.140.030 Characteristics of the Zones***

***C. General Industrial.*** *The General Industrial zones are two of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zones provide areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial areas.*

***2. General Industrial 2.*** *IG2 areas generally have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street."*

The Subject Property is developed with an existing building which provides space for mixed-use office, warehouse, and distribution uses, functions which can support the industrial character of the area. And because the building is existing, the Hearings Officer finds the proposal is not taking land area away from the potential to develop the Subject Property for an industrial use. The site design reflects the expected pattern in the IG2 zone.

For the purposes of this review BDS staff described the vicinity of the Subject Property to be the industrial area from NE Lombard to the south to the Columbia Slough to the north, and from NE 11<sup>th</sup> Avenue to the west to NE 33<sup>rd</sup> Drive to the east. The Hearings Officer agrees with BDS' description of the vicinity of the Subject Property. This large area reflects larger site sizes that are typical for industrial areas. The Applicant provided a use survey of this area, reviewing all non-industrial uses. A map and list is provided in Exhibit A.3. This list includes the following uses:

- The Oregon Humane Society approximately a half mile to the west;
- A cluster of houses to the south of NE Columbia across the street from the Oregon Humane Society;
- A restaurant approximately a quarter mile to the west;
- A few scattered residential houses to the east of the Subject Property; and
- A house converted into the Boilermakers Union offices to the east.

BES Staff, in the Staff Report (Exhibit H.2, page 10) and in an open-record submission (Exhibit H.3, page 2) additionally found the following non-industrial uses in the area:

- A retail tire shop across the street;
- A single-dwelling residence converted to a retail boat repair business located directly east of the Subject Property; and
- A self-service storage facility, a non-industrial use that is nonetheless allowed outright in the IG2 zone.

Most of these uses are small in scale and site size, and limited to the NE Columbia corridor. Considering the total number, intensity, and land area of these non-industrial uses in the industrial area, the Hearings Officer finds that they make up a small proportion of total uses and total land area in the area; most of them have no impact on the transportation system or the character of the area. Further, the section of the Subject Property proposed for this Community Service use has not hosted an industrial use for at least three decades (and possibly since the building was constructed), though the podium level of the building continues to have an industrial use.

The Hearings Officer finds that the proposed use does not result in an industrial area that appears to no longer be industrial, nor does it incrementally change the industrial character of the area to sufficiently "tip the balance" toward commercial or community uses. The Hearings Officer finds this approval criterion is met.

- D. The proposed use needs to be located in an industrial area or building because industrial firms or their employees constitute the primary market of the proposed use; and

**Findings:** The proposed SEI program will connect nearby industrial firms with potential employees drawn from the client base of SEI. It seems fair to assume that many of these clients live in North and Northeast Portland, in proximate locations to the industrial areas. Having an office/training space within the industrial area will allow SEI employees to connect to local businesses while inviting representatives into the SEI space to learn more about their programs and opportunities through trainings tailored to those business representatives. The Applicant, in its application narrative, stated that:

*"The Columbia location allows SEI to build stronger pipelines to livable, income-wage jobs in the industrial sector through having close proximity to many of those industrial jobs. SEI will open the doors to those companies with a desire to learn about equity, inclusion and our models through SEI trainings. The services that SEI provides to the community will empower the employers in the area to employ qualified job applicants from North/Northeast Portland" (Exhibit A.8).*

SEI historically has hosted two Trade Up! Fairs to highlight trade-related companies and organizations to their clients. While in the past this fair has focused on skilled trade jobs – electrician, welding, construction – SEI intends to host the fair at the Subject Property and invite industrial firms to share job opportunities with prospective employees. SEI has also begun taking first steps into the industrial jobs space by working with clients to certify them for flagging jobs and beginning efforts to connect clients with truck driving/delivery jobs.

The proposed use will occur in two primary “shifts.” During normal business hours, the space will be used for SEI staff networking with nearby industrial businesses to prospect, develop, and maintain employment opportunities for existing SEI clients. After business hours and on Saturdays, the space will be available for workshops and trainings. These trainings will be designed for clients SEI is connecting or has connected with industrial jobs, to ensure these clients are trained to be effective employees for the local firms. Trainings could run the gamut from job training classes to wraparound services to support all aspects of clients’ lives in order to help them become effective employees. Accessory services would be used on an as-needed basis, such as a childcare space to provide childcare during the trainings.

The Applicant, in its application narrative, also stated:

*“SEI cannot succeed in its mission if SEI is forced to stay ‘outside the house.’ The creation of employment access and growth require a direct and personal approach.”*

SEI represented that building relationships with industrial firms and connecting them with qualified job applicants requires proximity to these firms. The Hearings Officer finds that SEI demonstrated the necessity of the location to serve this industrial program.

BDS Staff, in the Staff Report (Exhibit H.2, pages 11 and 12), noted the possibility that SEI may have plans for other activities taking place at the Subject Property beyond the industrial employment program. BDS staff planner, in her hearing testimony, referenced the Staff Report (Exhibit H.2, pages 11 and 12). The BDS staff planner stated that a SEI website posting suggested SEI was “moving community and family programs” to the Subject Property. The Applicant, and the Applicant’s representatives (Hopson and Forde) acknowledged that the website post was a mistake and did not represent an expansion of the scope of the Applicant’s proposal. The Applicant noted, at the hearing, that it intends to continue to operate from its current headquarters (Center for Self Enhancement, Unthank Park, North Portland). The Hearings Officer, at the hearing, expressed concern that expansion of the scope of the Applicant’s proposal as set forth in its application would be inappropriate because the impacts from such expansion would not have been properly reviewed under the relevant approval criteria.

Based upon the Applicant's representatives' statements at the hearing, the Hearings Officer finds that this approval criterion can be met with the inclusion of Condition B.

The Plans Examiner (Exhibit E.7) indicated that a building permit will be required to change the occupancy or use of the building. Zoning Code Section 33.800.070 allows the City to impose conditions "to ensure that the proposal will conform to the applicable approval criteria for the review **or to ensure the enforcement of other City regulations**" (emphasis added). Because in this case a change of occupancy or use permit would be required, the Hearings Officer finds that a condition of approval is necessary requiring the Applicant to apply for the necessary building permit(s) within three months of final approval of this land use review, and have the permit finalized with 12 months of the final approval.

With the two conditions (Conditions C and D below) the Hearings Officer finds this approval criterion can be met.

- E. City-designated scenic resources are preserved.

**Findings:** City-designated scenic resources are shown on the zoning map by the 's' overlay. There are no such resources present on the Subject Property. Therefore, this criterion is not applicable.

## Oregon Statewide Planning Goals

### Goal 1: Citizen Involvement

Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a Committee for Citizen Involvement (CCI) to monitor and encourage public participation in planning.

**Findings:** The City of Portland maintains an extensive citizen involvement program which complies with all relevant aspects of Goal 1, including specific requirements in Zoning Code Chapter 33.730 for public notice of land use review applications that seek public comment on proposals. There are opportunities for the public to testify at a local hearing on land use proposals for Type III land use review applications, and for Type II and Type IIx land use decisions if appealed. For this application, a written notice seeking comments on the proposal and notifying of the public hearing was mailed to property owners and tenants within 400 feet of the Subject Property and to recognized organizations in which the Subject Property is located and recognized organizations within 1,000 feet of the Subject Property. Additionally, the Subject Property was posted with a notice describing the proposal and announcing the public hearing.

The public notice requirements for this application have been and will continue to be met, and nothing about this proposal affects the City's ongoing compliance with Goal 1.

Therefore, the Hearings Officer finds this proposal is consistent with this goal.

### **Goal 2: Land Use Planning**

Goal 2 outlines the basic procedures of Oregon's statewide planning program. It states that land use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted. It requires that plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed. Goal 2 also contains standards for taking exceptions to statewide goals. An exception may be taken when a statewide goal cannot or should not be applied to a particular area or situation.

**Findings:** Compliance with Goal 2 is achieved, in part, through the City's comprehensive planning process and land use regulations. For quasi-judicial proposals, Goal 2 requires that the decision be supported by an adequate factual base, which means it must be supported by substantial evidence in the record. The Hearings Officer, as noted in relevant findings above, concludes that this proposal complies with the applicable regulations and is supported by substantial evidence in the record. As a result, the Hearings Officer finds the proposal meets Goal 2.

### **Goal 3: Agricultural Lands**

Goal 3 defines "agricultural lands," and requires counties to inventory such lands and to "preserve and maintain" them through farm zoning. Details on the uses allowed in farm zones are found in ORS Chapter 215 and in Oregon Administrative Rules, Chapter 660, Division 33.

### **Goal 4: Forest Lands**

This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."

**Findings for Goals 3 and 4:** In 1991, as part of Ordinance No. 164517, the City of Portland took an exception to the agriculture and forestry goals in the manner authorized by state law and Goal 2. Since this review does not change any of the facts or analyses upon which the exception was based, the Hearings Officer finds this exception is still valid and Goal 3 and Goal 4 do not apply.

### **Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources**

Goal 5 relates to the protection of natural and cultural resources. It establishes a process for inventorying the quality, quantity, and location of 12 categories of natural resources. Additionally, Goal 5 encourages but does not require local governments to maintain inventories of historic resources, open spaces, and scenic views and sites.

**Findings:** The City complies with Goal 5 by identifying and protecting natural, scenic, and historic resources in the City's Zoning Map and Zoning Code. Natural and scenic resources are identified by the Environmental Protection ("p"), Environmental Conservation ("c"),

and Scenic (“s”) overlay zones on the Zoning Map. The Zoning Code imposes special restrictions on development activities within these overlay zones. Historic resources are identified on the Zoning Map either with landmark designations for individual sites or as Historic Districts or Conservation Districts. This Subject Property is not within any environmental or scenic overlay zones and is not part of any designated historic resource. Therefore, the Hearings Officer finds that Goal 5 is not applicable.

#### **Goal 6: Air, Water and Land Resources Quality**

Goal 6 requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.

**Findings:** Compliance with Goal 6 is achieved through the implementation of development regulations such as the City’s Stormwater Management Manual at the time of building permit review, and through the City’s continued compliance with Oregon Department of Environmental Quality (“DEQ”) requirements for cities. BES reviewed the proposal for conformance with sanitary sewer and stormwater management requirements and expressed no objections to approval of the application, as mentioned earlier in this decision. The Hearings Officer finds the proposal is consistent with Goal 6.

#### **Goal 7: Areas Subject to Natural Disasters and Hazards**

Goal 7 requires that jurisdictions adopt development restrictions or safeguards to protect people and property from natural hazards. Under Goal 7, natural hazards include floods, landslides, earthquakes, tsunamis, coastal erosion, and wildfires. Goal 7 requires that local governments adopt inventories, policies, and implementing measures to reduce risks from natural hazards to people and property.

**Findings:** The City complies with Goal 7 by mapping natural hazard areas such as floodplains and potential landslide areas, which can be found in the City’s MapWorks geographic information system. The City imposes additional requirements for development in those areas through a variety of regulations in the Zoning Code, such as through special plan districts or land division regulations. The Subject Property is not within any mapped floodplain or landslide hazard area. The Hearings Officer finds that Goal 7 does not apply.

#### **Goal 8: Recreation Needs**

Goal 8 calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed standards for expediting siting of destination resorts.

**Findings:** The City maintains compliance with Goal 8 through its comprehensive planning process, which includes long-range planning for parks and recreational facilities. The Hearings Officer finds the current proposal will not affect existing or proposed parks or recreation facilities in any way that is not anticipated by the zoning for the Subject Property, or by the parks and recreation system development charges that are assessed at

time of building permit. Furthermore, nothing about the proposal will undermine planning for future facilities. Therefore, the Hearings Officer finds that the proposal is consistent with Goal 8.

### **Goal 9: Economy of the State**

Goal 9 calls for diversification and improvement of the economy. Goal 9 requires communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

**Findings:** Land needs for a variety of industrial and commercial uses are identified in the adopted and acknowledged Economic Opportunity Analysis (“EOA”) (Ordinance 187831). The EOA analyzed adequate growth capacity for a diverse range of employment uses by distinguishing several geographies and conducting a buildable land inventory and capacity analysis in each. In response to the EOA, the City adopted policies and regulations to ensure an adequate supply of sites of suitable size, type, location and service levels in compliance with Goal 9. The City must consider the EOA and Buildable Lands Inventory when updating the City’s Zoning Map and Zoning Code. Because this proposal does not change the supply of industrial or commercial land in the City, the Hearings Officer finds this proposal is consistent with Goal 9.

### **Goal 10: Housing**

Goal 10 requires local governments to plan for and accommodate needed housing types. The Goal also requires cities to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

**Findings:** The City complies with Goal 10 through its adopted and acknowledged inventory of buildable residential land (Ordinance 187831), which demonstrates that the City has zoned and designated an adequate supply of housing. For needed housing, the Zoning Code includes clear and objective standards. Since this proposal is not related to housing or to land zoned for residential use the Hearings Officer finds that Goal 10 is not applicable.

### **Goal 11: Public Facilities and Services**

Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal’s central concept is that public services should be planned in accordance with a community’s needs and capacities rather than be forced to respond to development as it occurs.

**Findings:** The City of Portland maintains an adopted and acknowledged public facilities plan to comply with Goal 11. See Citywide Systems Plan adopted by Ordinance 187831. The public facilities plan is implemented by the City’s public services bureaus, and these bureaus review development applications for adequacy of public services. Where existing public services are not adequate for a proposed development, an applicant is required to

extend public services at its own expense in a way that conforms to the public facilities plan. In this case, the City's public services bureaus found that existing public services are adequate to serve the proposal. The Hearings Officer finds this proposal is consistent with Goal 11.

### **Goal 12: Transportation**

Goal 12 seeks to provide and encourage "safe, convenient and economic transportation system." Among other things, Goal 12 requires that transportation plans consider all modes of transportation and be based on inventory of transportation needs.

**Findings:** The City of Portland maintains a Transportation System Plan ("TSP") to comply with Goal 12, adopted by Ordinances 187832, 188177, and 188957. The City's TSP aims to "make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs." The extent to which a proposal affects the City's transportation system and the goals of the TSP is evaluated by PBOT. As discussed earlier in this decision, PBOT evaluated this proposal and found the proposed use would not affect street capacity, traffic operations, safety, on-street parking, or the other transportation evaluation criteria. Therefore, the Hearings Officer finds this proposal is consistent with Goal 12.

### **Goal 13: Energy**

Goal 13 seeks to conserve energy and declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."

**Findings:** With respect to energy use from transportation, as identified above in response to Goal 12, the City maintains a TSP that aims to "make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs." This is intended to promote energy conservation related to transportation. Additionally, at the time of building permit review and inspection, the City will also implement energy efficiency requirements for the building itself, as required by the current building code. For these reasons, the Hearings Officer finds the proposal is consistent with Goal 13.

### **Goal 14: Urbanization**

This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land." It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses.

**Findings:** In the Portland region, most of the functions required by Goal 14 are administered by the Metro regional government rather than by individual cities. The desired development pattern for the region is articulated in Metro's Regional 2040 Growth

Concept, which emphasizes denser development in designated centers and corridors. The Regional 2040 Growth Concept is carried out by Metro's Urban Growth Management Functional Plan, and the City of Portland is required to conform its zoning regulations to this functional plan. This land use review proposal does not change the UGB surrounding the Portland region and does not affect the Portland Zoning Code's compliance with Metro's Urban Growth Management Functional Plan. Therefore, the Hearings Officer finds Goal 14 is not applicable.

#### **Goal 15: Willamette Greenway**

Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.

**Findings:** The City of Portland complies with Goal 15 by applying Greenway overlay zones which impose special requirements on development activities near the Willamette River. The Subject Property is not within a Greenway overlay zone near the Willamette River. The Hearings Officer finds Goal 15 does not apply.

#### **Goal 16: Estuarine Resources**

This goal requires local governments to classify Oregon's 22 major estuaries in four categories: natural, conservation, shallow-draft development, and deep-draft development. It then describes types of land uses and activities that are permissible in those "management units."

#### **Goal 17: Coastal Shorelands**

This goal defines a planning area bounded by the ocean beaches on the west and the coast highway (State Route 101) on the east. It specifies how certain types of land and resources there are to be managed: major marshes, for example, are to be protected. Sites best suited for unique coastal land uses (port facilities, for example) are reserved for "water-dependent" or "water-related" uses.

#### **Goal 18: Beaches and Dunes**

Goal 18 sets planning standards for development on various types of dunes. It prohibits residential development on beaches and active foredunes, but allows some other types of development if they meet key criteria. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.

#### **Goal 19: Ocean Resources**

Goal 19 aims "to conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf." It deals with matters such as dumping of dredge spoils and discharging of waste products into the open sea. Goal 19's main requirements are for state agencies rather than cities and counties.

**Findings:** Since Portland is not within Oregon's coastal zone, the Hearings Officer finds Goals 16-19 do not apply.

### **Development Standards**

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

### **III. CONCLUSIONS**

The transportation system is capable of supporting the proposed Conditional Use, and the proposal would not have significant adverse impacts on truck or freight movement. With a condition of approval (Condition B) requiring all activities at the Subject Property be connected to SEI's proposed program to connect SEI clients with nearby industrial jobs, the proposal in this case meets the requirements of Portland City Code 33.815.125.D. With a condition of approval (Condition C), this proposal will meet the code requirements triggered by a "change of use" at the Subject Property.

At the Hearing the Applicant expressed concern that the language of Condition B was too restrictive. The Applicant and Staff agreed that the word "directly," found in the Staff Report proposed Condition B (Exhibit H.2, page 13) could be deleted. The Hearings Officer agreed to delete the word "directly" from Condition B.

### **IV. DECISION**

Approval of a Community Service use located in sections of the eastern office building on the Subject Property, for an SEI-run program to connect clients with jobs at nearby industrial firms, per Exhibits C.2 and C.3, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related Condition B must be noted on each of the four required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 19-232888 CU." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. All activities in the approved space must be connected to the program that connects SEI clients with nearby industrial jobs. No staff, services, trainings, or events not related to this program are allowed to take place or be based at the Subject Property.

- C. The Applicant must apply for a change of occupancy/use building permit for the new activity within three months of the final approval of this land use review and finalize any related building permits within 12 months of final approval.



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Gregory J. Frank, Hearings Officer

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March 4, 2020

Date

Application Determined Complete:	January 8, 2020
Report to Hearings Officer:	February 7, 2020
Decision Mailed:	March 4, 2020
Last Date to Appeal:	at 4:30 p.m., March 18, 2020
Effective Date (if no appeal):	March 19, 2020

**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 4<sup>TH</sup> AVENUE, PORTLAND, OREGON 97201. Appeals can be filed at the 5<sup>th</sup> 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 final decision.**

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded by the Bureau of Development Services.

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 this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

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

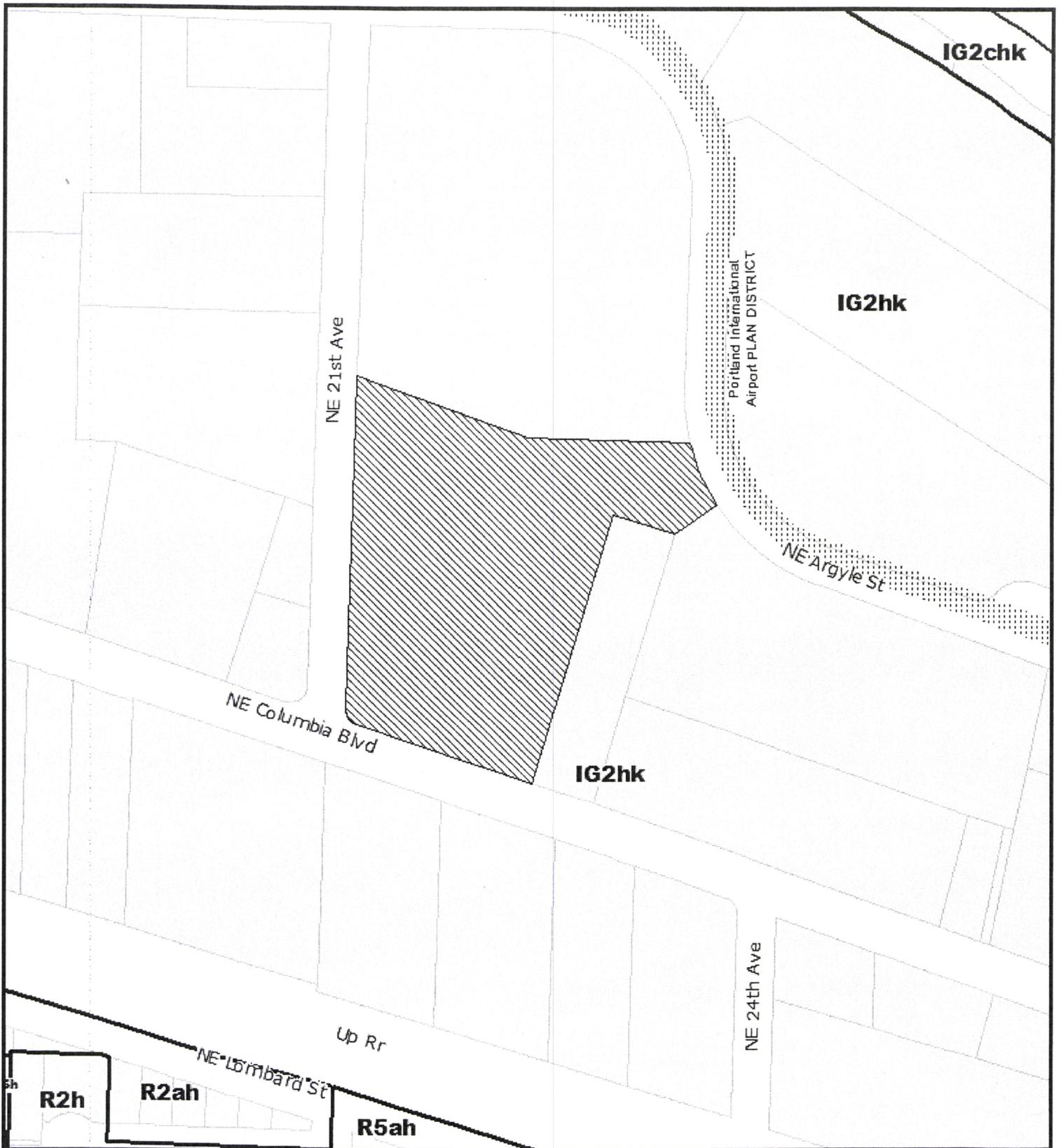
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;

- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions, and regulations of the City.

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Applicant Initial Narrative
  - 2. Response to Incomplete Letter, submitted November 14, 2019
  - 3. Revised Applicant Narrative, submitted November 14, 2019
  - 4. PBOT Traffic Scope Approval Form, submitted November 14, 2019
  - 5. Transportation Impact Study, submitted November 14, 2019
  - 6. Transportation Impact Study Appendix, submitted November 14, 2019
  - 7. Response to additional questions, submitted December 9, 2019
  - 8. Final Applicant Narrative, Submitted January 8, 2020
  - 9. Aerial View of Site
- B. Zoning Map (**attached**)
- C. Plans and Drawings
  - 1. Site Plan (**attached**)
  - 2. First Floor Plan (**attached**)
  - 3. Second Floor Plan (**attached**)
- D. Notification information
  - 1. Request for response, January 15, 2020
  - 2. Posting letter sent to applicant, January 14, 2020
  - 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
  - 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 (Building Code) Plans Examiner
  - 8. Police Bureau
- F. Letters: none received
- G. Other
  - 1. Original Land Use Application and Receipt
  - 2. Incomplete Letter, October 17, 2019
  - 3. Email to applicant, November 25, 2019
  - 4. Trade Up! Fair Recap
  - 5. Print of SEI home page, [www.selfenhancement.org](http://www.selfenhancement.org), captured February 6, 2020
  - 6. SEI Annual Report, 2018-2019
- H. Received in the Hearings Office

1. Hearing Notice - Rhoads, Amanda
2. Staff Report - Rhoads, Amanda
3. 2/19/20 Memorandum - Rhoads, Amanda
4. 2/19/20 Memorandum (2 copies) - Finley Fry, Peter
5. PowerPoint presentation printout - Rhoads, Amanda



# ZONING



Site



Stream

File No.	LU 19 - 232888 CU
1/4 Section	2232, 2332
Scale	1 inch = 200 feet
State ID	1N1E14AA 400
Exhibit	B Sep 30, 2019

