City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

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Date: May 29, 2020

To: Interested Person

From: Hannah Bryant, Land Use Services
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NOTICE OF A TYPE IIx DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision.
The reasons for the decision are included in the version located on the BDS website http://www.portlandonline.com/bds/index.cfm?c=46429. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 20-116765 PDB (AMENDMENT) DZM

GENERAL INFORMATION

Owner/Applicant: Gus Baum | Security Properties | SP Jade II LLC
701 Fifth Ave, Suite 5700
Seattle, WA 98104
(503) 709-2549

Representative: Christe White | Radler White Parks & Alexander LLP
111 SW Columbia St, Suite 700
Portland, OR 97201

Site Address: 2505 NE Pacific Street

Legal Description: W 100' OF BLOCK 46, SULLIVANS ADD
Tax Account No.: R806103450, R649911250, R649911260, R649911290, R649911300
State ID No.: 1N1E36BC 12300, 1N1E36BC 12002, 1N1E36BC 12003, 1N1E36BC 12004, 1N1E36BC 12005
Quarter Section: 2933
Neighborhood: Kerns, contact Jesse Lopez at kernslanduse@gmail.com.
Business District: None
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010 x313
Plan District: Sandy Boulevard
Other Designations: None
Zoning: CM3(MU-U)d,m – *Commercial Mixed Use 3 with a Design overlay and Corridors Main Street overlay*
Case Type: PDB DZM – *Planned Development Bonus Amendment Review and Design Review with Modification*
Procedure: Type IIx, an administrative decision with appeal to the Design Commission.

Proposal:
A previous Planned Development Review (LU 18-248691 PDBM) approved the site plan for a multi-phase development at the site of the current Pepsi Bottling Plant. The previously

approved new development is proposed to include a new publicly accessible plaza, the restoration of the existing Pepsi Pavilion building, new housing and commercial spaces, and a new publicly accessible park accessed off a new east-west connection designed as a woonerf. The woonerf is intended as a low traffic, one-way vehicle passageway with an emphasis on bicycle and pedestrian movements.

The applicant requests Planned Development Review and Design Review approval to revise the findings from the previously approved Pepsi Planned Development (LU 18-248691 PDBM) and the subsequent Design Review for the first phase of development (LU 19-183735 DZM AD) to allow the proposed woonerf to remain privately owned and maintained. The previous approval reflected the applicant's intention to construct the woonerf, and then to publicly dedicate it. The revised proposal does not change the design or function of the woonerf. It proposes that rather than a publicly dedicated street, it will remain in private ownership with a 24 hour/7 day a week public access easement.

<u>Modification Requests [PZC 33.825.040]</u>

1. Allow the publicly accessible parks to be accessed from a private driveway with a public access easement, rather than from a public street (33.270.200.B).
2. Revise a previously approved Modification (LU 18-248691 PDBM) to increase the maximum building setbacks from a Civic Corridor for all buildings on the site (Table 130-2 and 33.130.215.C).
3. Reduced landscape buffer between vehicle areas and abutting streets from 5' of L2 to 0' of L2 (33.266.130.G).

This review will change the label on the site plan to clarify that the woonerf is on-site vehicle area rather than a public street and will modify standards that were not triggered when the woonerf was designated as public right-of-way rather than a private driveway. No other changes are proposed.

By reclassifying the woonerf to private on-site vehicle area, this amendment strikes the previous Conditions of Approval E from LU 19-1183735 DZM AD, which required a Development Agreement for the maintenance responsibilities, construction timing and materials used for the woonerf as a publicly dedicated right-of-way. It also strikes all previous references in earlier Decisions to the woonerf being publicly dedicated, public right-of-way, or a public street. All previous references shall be replaced with on-site vehicle area.

Planned Development Amendment Review, Design Review and Modification Review are required to make non-exempt changes to previously approved Planned Development and Design Review.

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

- *33.854 - Planned Development Review*
- *Community Design Guidelines*
- *33.270 – Planned Development*
- *33.825.040 – Modifications That Will Better Meet Design Guidelines*

ANALYSIS

Site and Vicinity: Located in the Kerns Neighborhood Center, between the I-84 freeway and NE Sandy Boulevard, the four and a half block site is approximately 224,908 square feet. The surrounding neighborhood is an evolving mix of high-density and single-dwelling residential, intermixed with historic one- and two-story warehouses, some of which have been converted to retail, office and restaurants. Multiple large, new development proposals have been approved to the east and west of this site, along the NE Sandy corridor. It is located within the Inner Pattern Area, as identified by the Comprehensive Plan.

The current site is occupied by the Pepsi Bottling Plant warehouses, office and surface parking. The site includes a vacated section of NE Pacific Street between NE 25th Avenue and NE 27th Avenue, as well as a vacated portion of NE 26th Avenue between NE Pacific Street and NE Holladay Street. The existing buildings include an iconic 1962 bow-truss structure designed by architects Scott & Payne.

Planned public transportation investment in the vicinity includes a divided bike lane on NE 28th Avenue, across the bridge over I-84, as part of the larger 20s Bikeway. This Bikeway will create continual bike infrastructure from NE Lombard to SE Crystal Springs. Additionally, NE Sandy Boulevard is one of two possible alignments for a new extension to the Portland Streetcar.

The site is bounded by NE 25th Avenue to the west; NE Oregon Street and NE Sandy Boulevard to the south; NE Holladay Street, beside the I-84 freeway, to the north; NE 27th Avenue to the east. One half-block parcel to the east of NE 27th Ave. is included in the site. That parcel is within the Sandy Boulevard Plan District and is the only parcel on the site with the Main Street Overlay.

- NE 25th Avenue is a Local Service Bikeway; a Local Service Walkway, and a Minor Emergency Response Street.
- NE Holladay Street is a Local Service Bikeway; a Local Service Walkway, and a Minor Emergency Response Street.
- NE 27th Avenue is a Local Service Bikeway; a Local Service Walkway, and a Minor Emergency Response Street.
- NE Oregon Street is a Local Service Bikeway; a Local Service Walkway, and a Minor Emergency Response Street.
- NE Sandy Boulevard is a Civic Corridor; a City Bikeway; a City Walkway; a Major Emergency Response Street; a Main Truck Street; a Major City Traffic Street and a Major Transit Priority Street.

Zoning: The Commercial/Mixed Use 3 (CM3) zone is a large-scale zone intended for sites in high-capacity transit station areas, in town centers, along streetcar alignments, along civic corridors, and in locations close to the Central City. It is intended to be an intensely urban zone and is not appropriate for sites where adjacent properties have single-dwelling residential zoning. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to six stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, with buildings that contribute to an urban environment with a strong street edge of buildings. The scale of development is intended to be larger than what is allowed in lower intensity commercial/mixed use and residential zones. Design review is typically required in this zone.

The “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development are subject to design review. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review. In addition, design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

The Centers Main Street “m” overlay zone encourages a mix of commercial, residential and employment uses on the key main streets within town centers and neighborhood centers identified in the Comprehensive Plan. The regulations are intended to encourage a continuous area of shops and services, create a safe and pleasant pedestrian environment, minimize conflicts between vehicles and pedestrians, support hubs of community activity, and foster a dense, urban environment with development intensities that are supportive of transit.

The Sandy Boulevard Plan District implements the Sandy Boulevard elements of the Hollywood and Sandy Plan through special height transitions and unique setback treatments.

Land Use History: City records indicate that prior relevant land use reviews include the following:

- LU 18-248691 PDBM – Planned Development Review approval for a 4.5-block Planned Development with bonus height and bonus FAR at the site of the former Pepsi bottling plant. Included Modification review approval for two Modifications: to increase the maximum building setbacks and to reduce the quantity of publicly accessible park or plaza from 15% to 12.13% across the site.
- LU 19-183735 DZM AD - Design Review approval for the first phase of the previously approved Sandy Boulevard Planned Development. The first phase includes renovations for the existing Pepsi Pavilion building; one new mixed-income, mixed-use building; two levels of below-grade parking; a new publicly-dedicated woonerf-style street; a new publicly accessible plaza and a new publicly accessible pedestrian path.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **March 17, 2020**. The following Bureaus have responded with no issues or concerns:

- Site Development (Exhibit E.2)
- Fire Bureau (Exhibit E.3)
- Urban Forestry (E.4)
- Life Safety (no concerns)

The Bureau of Environmental Services responded with the following requested Condition of Approval: The stormwater facility for the proposed woonerf must be installed during the first phase of woonerf construction and must be adequately sized for the full buildout of the woonerf. If an alternate stormwater management system is proposed for the woonerf, it must be reviewed and approved by BES as meeting the SWMM and it must adequately manage triggered impervious surfaces for each phase of development, to the satisfaction of BES. Please see Exhibit E.1 for additional details.

The Portland Bureau of Transportation responded with the following comment: During the course of the City's review of the original Pepsi Blocks planned development project (18-248691 PDB), PBOT identified the need for the proposed woonerf to be dedicated as public right-of-way in order to best address the public connectivity requirements of the Zoning Code's applicable approval criteria. The project was accordingly approved by the City with the public right-of-way dedication requirement for the woonerf.

Subsequent to the original City approval of the project, the applicant continued to meet with PBOT management and other City officials expressing concerns that the public right-of-way dedication requirement for the woonerf would result in complications and challenges for the project's delivery. It was determined that the woonerf did not need to be constructed within public right-of-way and BDS supported that the woonerf could be permitted as a private driveway with a public access easement to facilitate the public's use of the woonerf to access the planned development site. The amended proposal reflects these determinations that have been made prior to PBOT/Development Review staff's review of the amendment request. Permitting & inspection of the woonerf/driveway will be performed by BDS. Please see Exhibit E.5 for additional details.

The Water Bureau responded with the following Condition of Approval: Water may not be accessed from the woonerf. Please see Exhibit E.6 for additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 17, 2020. No written responses were received from either the Neighborhood Association or notified property owners in response to the proposal.

PROCEDURAL HISTORY

The initial Planned Development (PD) for this site (LU 18-248691 PDBM) was the first proposal reviewed under a brand new Planned Development bonus. This bonus allows additional height and FAR for qualifying sites, provided specific public benefits including providing a park or plaza equivalent to 15% of the site area, participation in Inclusionary Housing, and a high standard of energy efficiency are provided. In the first Planned Development review, the applicant proposed a new one-way street at the location of the previously vacated NE Pacific Street. Therefore, both the Planned Development review LU 18-248691 PDBM and the subsequent Design Review for the first phase of development (LU 19-183735 DZM AD) both refer to the woonerf as 'publicly-dedicated'.

Following the first Planned Development review, it was determined that other city code standards related to public streets precluded other elements of the proposal – particularly the functionality of two levels of below-grade parking. It was agreed that if the woonerf remains part of the site, and is not publicly dedicated, then the parking garage can function as designed. Therefore, this review is primarily to reclassify the woonerf as 'on-site vehicle area' rather than a publicly-dedicated street. The previously approved design and function of the woonerf have not changed. It will continue to function as a publicly accessible connector, with a 24 hours a day, 7 days a week public access easement.

Per Title 33 standards, the woonerf is now considered a driveway, loading area and parking area. Therefore, numerous driveway, loading and parking-related code standards apply. This review includes Modifications to some of these standards to ensure that the proposed woonerf can function as a publicly accessible connector. Since the term 'driveway' connotes a very different condition than the function of the proposed woonerf, for the purposes of this document it is referred to as 'on site vehicle area.'

By reclassifying the woonerf to private on-site vehicle area, this amendment strikes the previous Conditions of Approval E from LU 19-1183735 DZM AD, which required a Development Agreement for the maintenance responsibilities, construction timing and materials used for the woonerf as a publicly dedicated right-of-way.

Additional updates include updated site plans, to reflect the woonerf's inclusion in overall site area. New exhibits include woonerf design details and phasing plans.

ZONING CODE APPROVAL CRITERIA

Section 33.270.010 Purpose of Planned Development Review
The purpose of Planned Development review is to provide an opportunity for innovative and creative development. Planned Development provides a master planning mechanism for allowing additional housing types and uses, the transfer of density and floor area to different portions of a site, and across internal zoning boundaries, and bonus floor area and increased height on large sites in commercial/mixed use zones. Flexibility is allowed when the development is successfully integrated into the neighborhood and provides public benefits. Planned Developments promote: contextually appropriate development; pedestrian-oriented, multimodal transportation alternatives; a safe and vibrant public realm; open space areas that include gathering spaces and passive and/or active recreation opportunities; affordable housing, and energy efficient development.

(1) PLANNED DEVELOPMENT REVIEW (33.854)

Chapter 33.854 Planned Development
Section 33.854.010 Purpose of Planned Development Review
These regulations assign Planned Development Reviews to an appropriate procedure type. The approval criteria ensure that innovative and creative development is encouraged when it is well designed and integrated into the neighborhood.

33.854.300 Approval Criteria in General

The approval criteria for Planned Developments are stated below. Planned Developments in all zones must meet the criteria in Section 33.854.310. Some proposals must also meet additional approval criteria, as follows: A. Proposals to modify site-related development standards must meet the criteria in Section 33.854.320. B. Proposals for commercial uses in residential zones must meet the criteria in Section 33.854.330. C. Proposals that do not include a land division must meet the criteria in Section 33.854.340. Proposals that are only using the commercial/mixed use zones Planned Development bonus (See 33.270.100.I) are not required to meet the criteria in Section 33.854.340.

Section 33.854.310 Planned Development Review Approval Criteria

A request for a Planned Development will be approved if the review body finds that the applicant has shown that all of the relevant approval criteria have been met.

Findings for 33.854.300 and 33.854.310: A Planned Development is requested; therefore, the proposal requires Planned Development Review approval. The applicable criteria are found in 33.854.300.A-C, 33.854.310.A-F, and 33.854.320.A-B. Approval criteria for 33.854.310.A-F are listed below.

A. Urban design and development framework.

A.1. The proposed overall scheme and site plan provide a framework for development that meets applicable Community Design Guidelines and will result in development that complements the surrounding area;

A.2. Scale and massing of the development addresses the context of the area, including historic resources, and provides appropriate scale and massing transitions to the adjacent uses and development specifically at the edges of the Master Plan area;

A.3. Proposed plazas, parks, or open areas are well located to serve the site and public, and are designed to address safety and comfort of users; and

A.4. The site plan promotes active ground floor uses on key streets to serve the development and surrounding neighborhood; and

Findings for A.1, A.2, A.3, A.4: The overall scheme and previously approved Planned Development site plan provide a framework that reestablishes connectivity for pedestrians, bicyclists and vehicles through an area that currently has multi-block buildings spanning over vacated rights-of-way. This proposal does not propose any design changes from the previously approved site plan. Rather, it is a technical amendment, to designate the proposed woonerf as a private on-site vehicle area rather than a publicly-dedicated street.

<u>Amendment to a Previously Approved Planned Development</u>

Portland's Zoning Code (PZC) 33.854.500 establishes the review procedures for amendments to Planned Developments and describes major, minor and administrative amendments. Re-designating the woonerf as a private drive with no design changes does not trigger any of the thresholds for a major amendment. For example, increases in site area of more than 5% would trigger a major amendment. This proposal does not increase the site area and retains the previously approved boundaries and site area under the PD Decision. The area of the woonerf was included in the site area calculations under the PD Decision and will remain in the site area calculations under this amendment. (See PD Decision at pages 30-31; Exhibits C.1, Site Plan and C.40, FAR Allocation). The original site area was 224,908 square feet and will remain 224,908 square feet under this amendment. No other Type III trigger is met. Accordingly, this proposal qualifies as a Type IIx under PZC 33.854.510.B. The approval criteria for changes to a Planned Development are those used for approval of the original planned development application. PCC 33.854.520.

A.1 – Urban Design and Development Framework
There are no changes to the urban design as approved in LU 18-248691 PDBM. The woonerf, as a private on-site vehicle area, will still connect NE 25th to NE 27th and will still serve local on-site traffic in a one-way low traffic configuration with an emphasis on pedestrians and bicyclists. The woonerf will also be subject to a 24/7 public access easement with no gates or other restrictive access devices.

The relevant Community Design Guidelines that previously addressed the woonerf are *P1 - Plan Area Character; D7 - Blending into the Neighborhood; E1-Pedestrian Network, and E2 - Stopping Places*. There is no change to the original Planned Development Decision findings under these guidelines. The woonerf will continue to be open to the public with no restrictions on access and will provide an important east-west connection through the site for pedestrians, bicyclists and local traffic. The landscaping and material design will remain the same. Therefore, the response to these guidelines is unchanged in substance and instead altered only in the term used to describe the woonerf.

This criterion remains met.

A.2. Scale and massing of the development addresses the context of the area, including historic resources, and provides appropriate scale and massing transitions to the adjacent uses and development specifically at the edges of the Master Plan area;

Findings for A.2: The woonerf will remain the same width as originally proposed and approved in LU 18-248691 PDBM and LU 19-183735 DZM AD. No changes are proposed to the scale and massing of other buildings, so there are no amendments to the findings for scale and massing.

This criterion remains met.

A.3. Proposed plazas, parks, or open areas are well located to serve the site and public, and are designed to address safety and comfort of users; and

Findings for A.3: The previous A.3 findings in LU 18-248691 PDBM addressed the location of the larger of the two parks proposed in the Planned Development and stated that the larger park would be located adjacent to the Pacific Street woonerf. The park will be open from 7am to 9 pm daily and its landscaping spills into the adjacent woonerf to "provide visual intrigue, inviting pedestrians and cyclists into the space to explore, while slowing bicyclists and vehicles. This extension into the woonerf also serves to narrow the pedestrian crossing across the street and enhance the connection between the park and plaza." The smaller Pacific Park is also located directly off of the woonerf and its location will "encourage its use by surrounding neighbors." Again, none of these findings will be altered under this amendment. Instead, the woonerf will merge with the larger park and provide direct access to the larger park and Pacific Park in the same manner, in the same location and with the same design as expressed in these original findings. However, the woonerf the woonerf will be on-site vehicle area with unrestricted public access, ensured with a recorded public access easement.

Condition of Approval C states that a public access easement shall be recorded prior to Certificate of Occupancy for Building A (as shown on exhibit C.7) issuance over the full 50' width of the woonerf and its parallel sidewalks to ensure it is open to public pedestrian, bicycle and vehicle access without gates or restrictions. Due to the phased development plans for this Planned Development, it is understood that the Easement language shall acknowledge a

mechanism for allowing temporary closures of the woonerf for limited construction purposes.

The non-standard design provide a low-risk opportunity for the community to test new street materials and design. While the woonerf will provide community connectivity, and access to new publicly accessible parks, the applicant has volunteered to accept responsibility for the construction and maintenance of the woonerf in perpetuity. Therefore, Condition of Approval G states that all elements of the woonerf (as illustrated in exhibit C.6 and LU 19-183735 DZM PD exhibits) shall be constructed, maintained and repaired at the sole cost and expense of the owner or its successors.

With Condition of Approval C that a public access easement for the full 50' width of the woonerf and its parallel sidewalks without gates or restrictions shall be recorded prior to Certificate of Occupancy issuance for Building A, and Condition of Approval G that all elements of the woonerf shall be constructed, maintained and repaired at the sole cost and expense of the owner or its successors, this criterion is met.

A.4. The site plan promotes active ground floor uses on key streets to serve the development and surrounding neighborhood; and

Findings for A.4: The ground floor uses are not impacted by this amendment.

This criterion remains met.

B. Transportation system. The transportation and circulation system provides multimodal connections that support the development of the site, and limit impacts to adjacent neighborhoods.

Findings for B: The findings for this criterion in LU 18-248691 PDBM do not require the woonerf to be a public street. Rather, the criteria require a 'multimodal connection' that supports the site and limits impact to the adjacent neighborhood. Reclassifying the woonerf as on-site vehicle area with a 24/7 public access easement does change the previous findings which state:

> *Pedestrians and bicycles are prioritized along the woonerf. A single one-way travel lane for cars will provide necessary access to the work/live units located around the park and along the woonerf, but will not encourage non-local through traffic. No access to below grade parking areas is proposed for the woonerf.*

As the woonerf is reclassified to be on-site vehicle area rather than a publicly dedicated right-of-way, Condition of Approval C states that 24 hours a day, 7 days a week public access easement shall be recorded prior to Certificate of Occupancy issuance for Building A, to ensure that it functions as a publicly accessible connector for pedestrians, bicycles and vehicles.

Additional Conditions of Approval ensure that the interim driveway connection is constructed with the first phase of development, to provide a through-site connection for neighborhood use, and the final woonerf condition will be constructed prior to substantial completion of each phase of vertical development, as shown in exhibit C.7. While the interim driveway connection spanning NE 27th Avenue to NE 25th Avenue may be a single lane of asphalt paving, to be shared by pedestrians, bicyclists and one-way auto traffic, the intent is to ensure the connection is facilitated as soon as possible and not deferred to a final phase. The proposed woonerf phasing plan accommodates stormwater treatment, grade changes across the site, and on-going access to

existing buildings that will remain in use until they are replaced by later stages of development. For these reasons, and because it will likely be utilized for construction purposes that could damage its surfaces and landscaping, the phased construction of the final woonerf design – the meandering lanes, extensive landscape treatment and non-standard surface materials – shall happen in conjunction with the phased vertical development.

While the on-site vehicle area will function as a public street, per Condition of Approval G, it will be constructed by the applicant at its sole cost and expense and maintained in perpetuity by the applicant or its successor also at its sole cost and expense. This relieves the City of the maintenance costs of this multi-modal connection, while providing the neighborhood with a needed alternative to the high-traffic environment of NE Sandy Boulevard, and providing the region with a prototype for a new pedestrian-oriented street design to evaluate and replicate elsewhere if appropriate.

With Condition of Approval C, that the woonerf shall have a 24/7 public access easement that allows the public to utilize the drive lane and adjacent sidewalks to walk, bike or drive through the site without gates or restrictions; Condition of Approval E that an interim 50' connection, aligned with NE Pacific Street and spanning from NE 27th Avenue to NE 25th Avenue shall be completed prior to Certificate of Occupancy for Building A; Condition of Approval F that substantial completion of each phase of the woonerf shall be completed prior to issuing a final Certificate of Occupancy for the related vertical development in that phase of the Development Project (as detailed in exhibits C.6 and C.7) and Condition of Approval G that all elements of the woonerf shall be constructed, maintained and repaired at the sole cost and expense of the owner or its successors, this criterion is met.

C. Stormwater Management. The Planned Development meets the requirements of the Stormwater Management Manual or describes a phased approach to meet the requirements.

Findings for C: The Bureau of Environmental Services has found the revised stormwater plan meets the requirements of the Stormwater Management Manual, with a Condition of Approval that the stormwater facility for the proposed woonerf must be installed during the first phase of woonerf construction and must be adequately sized for the full buildout of the woonerf. If an alternate stormwater management system is proposed for the woonerf, it must be reviewed and approved by BES as meeting the SWMM and it must adequately manage triggered impervious surfaces for each phase of development, to the satisfaction of BES. The BES response is in exhibit E.1.

With Condition of Approval B that the stormwater facility for the proposed woonerf must be installed during the first phase of woonerf construction and must be adequately sized for the full buildout of the woonerf. If an alternate stormwater management system is proposed for the woonerf, it must be reviewed and approved by BES as meeting the SWMM and it must adequately manage triggered impervious surfaces for each phase of development, to the satisfaction of BES, this criterion is met.

D. Phasing Plan. The Planned Development establishes coordinated phasing of development that demonstrates how the site will be developed over time and how any required development elements will be met.

Findings for D: The phasing plan, as outlined by findings for this criterion and the corresponding exhibits in LU 18-248691 PDBM, as well as the Conditions of Approval for that same case, are not proposed to change with this amendment.

While the previous Decision indicated that the woonerf would be dedicated as a right-of-way, with the determination that it will remain on-site vehicle area with a public access easement, two Conditions of Approval have been added related to the construction of its first, interim condition, and the phased completion of its final construction. The interim condition provides through-site connections with a straight, asphalt surface to be shared by pedestrians, bicyclists, one-way vehicle travel and emergency vehicles. As each phase of vertical development adjacent to the woonerf is completed, the quadrant of the interim connection will be replaced with the final woonerf design and materials. The phasing plan, as detailed in exhibit C.6 demonstrates how this can be accomplished while maintaining continuous access through the site.

Condition of Approval E states that an interim 50' connection, aligned with NE Pacific Street and spanning from NE 27th Avenue to NE 25th Avenue shall be completed prior to Certificate of Occupancy for Building A (the L-shaped building at the southeast corner of the site that wraps around the Pavilion building on the north and west sides). The interim connection will allow emergency access, one-way vehicle, bike and pedestrian travel but may be developed as a straight, paved, single lane Condition of Approval F states that substantial completion of each phase of the woonerf shall be completed prior to issuing a final Certificate of Occupancy for the related vertical development in that phase of the Development Project (as detailed in exhibits C.6 and C.7).

With Condition of Approval E that an interim 50' connection, aligned with NE Pacific Street and spanning from NE 27th Avenue to NE 25th Avenue shall be completed prior to Certificate of Occupancy for Building A and Condition of Approval F that substantial completion of each phase of the woonerf shall be completed prior to issuing a final Certificate of Occupancy for the related vertical development in that phase of the Development Project (as detailed in exhibits C.6 and C.7) this criterion is met.

E. Configure the site and development to visually integrate both the natural and built features of the site and the natural and built features of the surrounding area. Aspects to be considered include:

1. Orienting the site and development to the public realm, while limiting less active uses of the site such as parking and storage areas along the public realm;

2. Preservation of natural features on the site, such as stands of trees, water features or topographical elements;

3. Inclusion of architectural features that complement positive characteristics of surrounding development, such as similar building scale and style, building materials, setbacks, and landscaping;

4. Mitigation of differences in appearance through means such as setbacks, screening, landscaping, and other design features;

5. Minimizing potential negative effects on surrounding residential uses; and

6. Preservation of any City-designated scenic resources.

Findings for E: The site plan, as approved in LU 18-248691 PDBM is not proposed to change with this amendment.

This criterion remains met.

F. Provide adequate open area on sites zoned RF through R2.5 where proposed development includes attached houses, duplexes, attached duplexes, or multi-dwelling structures. Open area does not include vehicle areas.

Findings for F: *This site is zoned CM3, therefore this criterion does not apply.*

(2) MODIFICATION REQUESTS (33.854)
33.854.320 Modifications That Will Better Meet Approval Criteria:
The following criteria apply to modifications of site-related development standards, including parking standards. These modifications are done as part of a Planned Development review and do not have to go through the adjustment process. Modifications to development standards for which adjustments are prohibited may not be considered. The modification will be approved if the following approval criteria are met:

A. **Better meets approval criteria.** The resulting development will better meet the applicable approval criteria of Section 33.854.310; and

B. **Purpose of the standard.** On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

Modification 1: Access to parks (33.270.200.B.1.b) - Allow the publicly accessible parks to be accessed from a private driveway with a public access easement, rather than from a public street.

Purpose Statement: The Planned Development regulations provide an opportunity for innovative and creative development. Planned Development provides a master planning mechanism for allowing additional housing types and uses, the transfer of density and floor area to different portions of a site, and across internal zoning boundaries, and bonus floor area and increased height on large sites in commercial/mixed use zones. In this case, the flexibility is allowed when the development includes features that provide public benefits.

These regulations allow flexibility, and in some cases, increased intensity of development, beyond that allowed by other chapters of this Title, if the proposed development is well-designed and can be successfully integrated into the neighborhood and provides public benefits. Overall, a Planned Development is intended to promote:

- High quality design that is integrated into the broader urban fabric, and complements existing character within the site and adjacent to the site;
- Development that is pedestrian-oriented, with a strong orientation towards transit and multimodal transportation alternatives;
- Building bulk, height, and orientation that ensures that light and air is accessible within the public realm, and that public view corridors are protected;
- A safe and vibrant public realm, with buildings and uses that are oriented to activate key public gathering spaces, be they public open space, transit stations, or the Willamette River;
- Open space areas that include gathering spaces and passive and/or active recreation opportunities;
- Affordable housing; and
- Energy efficient development.

Standard: Plaza or park.
1. The plaza or park must be:
   (b) Located adjacent to a public street

A. Better meets design guidelines. *The resulting development will better meet the applicable design guidelines; and*

Findings: The location of the two parks adjacent to the woonerf creates publicly accessible destinations sheltered from the noise and traffic of NE Sandy Boulevard by buildings and extensive tree canopy. The woonerf provides a peaceful, pedestrian-oriented east-west alternative to the NE Sandy Boulevard sidewalk and is therefore likely to be more utilized by pedestrians and bicyclists than the surrounding streets.

Unlike the prominent location of the visible, active plaza, the parks are intended to be pockets of respite, with rolling topography, play areas and seating, with a sense of enclosure provided by buildings at their perimeters. Their unique locations, scale and programs along the woonerf serve to strike a balance between visibility and accessibility while providing an element of surprise to the pedestrian experience. This is particularly valuable in an area notable for its proximity to the freeway and a busy civic corridor, and its lack of peaceful green, publicly-accessible spaces.

The location of the parks off the meandering, tree-lined woonerf better meets guidelines *D3 – Landscape Features and D1 – Outdoor Areas.*

B. Purpose of the standard. *On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*

Findings: The purpose of this standard is to ensure that the required parks and plaza are visible and accessible to the public. These publicly accessible open spaces are required to be provided in exchange for additional site-wide FAR and height bonuses. In this situation, the woonerf was originally designed to be a public street. It received conceptual Public Works approval from the Portland Bureau of Transportation before it was determined that the woonerf should be reclassified to a non-dedicated on-site vehicle area. Since the purpose of this amendment is solely to retain the previously approved woonerf as part of the site, rather than requiring its public dedication as indicated in previous land use Decisions, its appearance and function will not change. Therefore, with a recorded easement ensuring unrestricted 24 hour, 7 days a week public access across the woonerf, the reclassified woonerf will continue to meet the purpose of this standard as on-site vehicle area.

Therefore, this Modification merits approval.

Modification 2: Maximum building setbacks (Table 130-2 and 33.130.215.C.2.c) - Revise a previously approved Modification (LU 18-248691 PDBM) to increase the maximum building setbacks for all buildings on the site.

Purpose Statement: The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial/mixed use zones. The setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air, and the potential for privacy for adjacent residential zones.

The front setback requirements for Civic Corridors in Eastern and Western pattern areas provide opportunities for additional pedestrian space and separation from the vehicle traffic along these major streets to create an environment for building users and pedestrians that is less impacted by close proximity to traffic and provide opportunities for front landscaping reflective of the vegetated characteristics of these neighborhood pattern areas.

Standard: Maximum Building Setbacks.
In the CM3 zone, if the site has street lot lines on three or more streets, the maximum setback standard only applies to two of the streets. When this occurs, the standard must

be applied to the streets with the highest transit street classifications. If the site is a through lot, the maximum setback standard only applies to the street with the highest transit classification. If multiple streets have the same highest transit street classification, the applicant may choose which street or streets to apply the standard.

A. Better meets design guidelines. *The resulting development will better meet the applicable design guidelines; and*

Findings: While the site plan is not proposed to change from the building footprints and locations previously approved through LU 18-248691 PDBM, with the reclassification of the woonerf to remain within the site boundaries (rather than public right-of-way), the site is now a through lot. Since it's a through lot, the maximum setback standard applies to NE Sandy Boulevard, which is classified as a Civic Corridor – the highest transit classification of the six streets adjacent to this site. Therefore, the code standard requires all six proposed buildings on the site to be located within 20 feet of NE Sandy Boulevard. Since the site only has 50' of frontage along NE Sandy Boulevard, this is infeasible.

The large site has frontages on six streets, including NE Sandy Boulevard, NE Oregon Street, NE 25th Avenue, NE Holladay Street, NE 27th Avenue and NE Pacific Street. In addition, the woonerf will function as an extension of NE Pacific Street, bisecting the southern and northern halves of the site. The previously approved site plan creates wide, pedestrian oriented pathways between buildings, providing connections between the public accessible amenities including the parks, plaza and woonerf and the adjacent streets. Per a Condition of Approval in LU 19-183735 DZM AD, a public access easement shall be recorded over the largest of these pedestrian paths, referred to in that Decision as the Mews, as it runs north/south connecting NE Oregon to the woonerf, and as it runs east/west between the plaza and the north/south path.

The proposed site plan utilizes bar buildings to create a sense of enclosure around publicly accessible parks and a new plaza. The resulting forms and interstitial spaces are cohesive while also diverse enough to avoid feeling like a campus. Located off the woonerf, the parks are intended to be more intimate and quieter. The large plaza is located where it can activate the highly visible corner of NE Sandy and NE 27th Avenue, providing a safe, welcoming community gathering space. Each of the outdoor spaces is unique and is framed by buildings that vary in scale, height, program and orientation. The result is consistent with typical city blocks, despite a site that is approximately 4.5 blocks in size.

With the previously approved pedestrian-oriented paths, and the woonerf linking two new parks and a publicly accessible plaza, the proposed placement of buildings around the site that relate to each of its street frontages better meets guidelines E1 – The Pedestrian Network; E2 – Stopping Places; E3- The Sidewalk Level of Buildings; E4 – Corners that Build Active Intersections, E5 – Light, Wind and Air, D1 – Outdoor Areas; D3 – Landscape Features; D7 – Blending into the Neighborhood and D8 – Interest, Quality & Composition.

B. Purpose of the standard. *On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*

Findings: The maximum setback standard is intended to ensure an urban, pleasant pedestrian environment along the highest classification streets, and to prevent deep, unoccupiable landscaped setbacks or parking lots that are typical of auto-oriented development.

In this situation, the highest classification street is the Civic Corridor. An existing building, the Pavilion, is being retained adjacent to this frontage. To highlight the Pavilion's iconic architecture, it will be surrounded by a landscaped plaza. The plaza provides respite and a human-scale resting areas sheltered from the noise and traffic of Sandy Boulevard. It is enclosed by active commercial ground level uses on two sides and bordered by trees to create an urban edge while still fostering permeability and views to active uses in and adjacent to the plaza.

The plaza condition, and the dispersed buildings on the site will serve to activate and enhance not only the Sandy Boulevard frontage, which the code standard dictates, but all the six street frontages as well as the woonerf adjacent to and through the site.

Therefore, this Modification merits approval.

Modification 3: Landscape Screening (33.266.130.G, Table 266-5, Table 266-8) Reduced landscape buffer between vehicle areas and abutting streets from 5' to 0'.

Purpose Statement 33.266.130: The development standards promote vehicle areas that are safe and attractive for motorists and pedestrians. Vehicle area locations are restricted in some zones to promote the desired character of those zones.

Together with the transit street building setback standards in the base zone chapters, the vehicle area location regulations:

- Provide pedestrian access that is protected from auto traffic;
- Create an environment that is inviting to pedestrians and transit users, especially on transit streets and in Pedestrian Districts;
- Limit the prominence of vehicle areas along street frontages and create a strong relationship between buildings and the sidewalk;
- Create a sense of enclosure on transit and pedestrian street frontages; and
- Limit the size of paved parking area and the type of paving material allowed in order to limit increases in temperature associated with asphalt and reduce impacts from urban heat islands.

Purpose Statement Loading Standards - 33.266.310: A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way.

Standards: Setbacks and perimeter landscaping.

a. Where these regulations apply. The regulations of this paragraph apply to:

(1) Surface parking areas abutting a lot line;

Table 266-5 Minimum Parking Area Setbacks and Landscaping
Lot line abutting street: 5 ft of L2 landscaping

Table 266-8 Minimum Loading Area Setbacks and Perimeter Landscaping
Lot line abutting street: 5 ft of L2 landscaping

Proposal: The Planned Development includes a multi-modal Woonerf linking NE 27th Avenue to NE 25th Avenue along vacated NE Pacific Street, providing one-way vehicle travel as well as bicycle and pedestrian paths. Previously designed and approved as a publicly dedicated right-of-way, the Woonerf will now be classified as a private driveway with a 24 hours, 7 days a week

public access easement. It will still be built in four phases associated with adjacent development sites as previously approved in LU 19-183735.

Since the code standard (Table 266-5) above does not include a definition for 'abutting', the standard of 5' of L2 landscaping is required between the woonerf's parking and loading space and all surrounding streets – including NE Holladay and NE Oregon Street, which are both almost 200' from the woonerf – where there is not a building screening the woonerf from the streets. This would require a buffer of L2 landscaping across all the north/south pedestrian paths that intersect with the woonerf and are intended to provide pedestrian connectivity through the site.

Therefore, the four primary areas that this Modification is requested include:

1. Woonerf Ends: Between the parallel parking and loading zone on the south side of the woonerf and the perpendicular streets (NE 25th and NE 27th) at either end.

2. Woonerf Length (South): Between the north/south pedestrian paths (the Mews, the path to the south of Pacific Park) that connect NE Oregon Street with the woonerf.

3. Woonerf Length (North): In the area to the north of the woonerf, where existing warehouses and office spaces will be demolished over time to facilitate future phases of the Planned Development. In this area, the grade difference between the woonerf and NE Holladay Street is approximately 12-14'.

4. Garage Access into Building A: A short driveway off NE Oregon Street provides access to the below-grade parking beneath Building A. Until Phase Two is developed, this driveway triggers a landscape buffer between it and NE 25th Avenue.

A. Better meets design guidelines. *The resulting development will better meet the applicable design guidelines.*

Findings: The proposed development will better meet the intent of the applicable design guidelines by creating an active intersections and through-site pedestrian connections consistent with *Pedestrian Emphasis Guideline E1 – The Pedestrian Network, E4 – Corners that Build Active Intersections, and D4 – Parking Areas and Garages.*

Woonerf Ends: Phase 1A of the Woonerf includes parallel parking along its southern edge to support the ground floor uses of the adjacent Mixed-Use Building (Building A) and the future phased buildings (B, C and D). Consistent with typical urban street corners, the design does not propose a landscape buffer to screen the Woonerf's parallel parking from NE 27th Avenue, but instead proposes entry corners highlighted with large curb bulbs, trees planted in tree wells, and a transition to special paving within the woonerf (and parallel parking) itself. This design is consistent with typical street designs, but since the woonerf is designated as an on-site vehicle area, it triggers the requirement for a 5' buffer of L2 landscaping between on-site parking areas and the abutting streets.

This corner is proposed as an extended curb bulb which widens the public sidewalk network, creates a larger sidewalk corner able to be used for urban life, and shortens the crossing distances across both the Woonerf and NE 27th Avenue. A mountable curb also reinforces the separation of vehicular and pedestrian areas while reinforcing the pedestrian nature of the woonerf design.

Woonerf Length: The standard is also triggered along the length of both the north and south side of the woonerf, except where the woonerf is screened from the streets parallel to it by buildings. As noted above, since the code standard does not provide exceptions for streets that are distant from the 'driveway'; vertically separated by grade, or where future buildings are proposed, the

woonerf is required to be buffered by 5' of L2 landscaping along its full length, except where there is currently a building between it and the parallel streets.

South: Phase One of the phased development has already received Design Review approval and is currently in building permit review. Once approved, Building A will screen approximately 200' of the length of the woonerf. Building B is anticipated to follow in the next phase. However, as part of the approved Planned Development site plan, the buildings will be separated by a private north-south pedestrian path, courtyard and a small parklet. While it is likely that in the 200' length of this space, that the proposed landscaping will exceed the required 5' of L2, this Modification allows design flexibility for Phase Two, while ensuring that visual and physical connectivity between NE Oregon and the woonerf can be maintained for site residents.

An additional north-south pedestrian path (the Mews) is approved beneath building A, connecting the plaza at NE Sandy Boulevard, the retail in the Pavilion building, the NE Oregon Street sidewalk with the woonerf and, once completed, the large park to the north of the woonerf. This wide pedestrian path received extensive critical review through the Design Review process to ensure that its scale, design and adjacent ground levels are suitable to ensure a publicly welcoming environment. A Public Access Easement over the full width and length of this pedestrian path is required (LU 19-183735 DZM AD, Condition of Approval C). A 5' deep planted buffer across the width of this path at any location between the woonerf and NE Oregon Street would counter the desired public connectivity this path was designed for.

North: The north side of the woonerf will be a site of constant change in upcoming years as existing buildings are demolished to facilitate future development phases. During some phases, a site plan will indicate the woonerf is screened from NE Holladay Street, to the north, and in other phases no building will separate the two streets. However, at all times, the woonerf and NE Holladay, which run parallel to one another separated by a full 200' city block, are also separated by approximately 12'-14' of vertical grade change. This grade change, equivalent to the height of many nearby one-story warehouse buildings, ensures that the vehicle area of the woonerf will not be visible from NE Holladay, regardless of the status of building demolition or construction in the block that separates them. Therefore, requiring an additional 5' of L2 to temporarily screen the woonerf during phases where the final built result is not completed, is unnecessary and unlikely to result in any visual enhancement from the public right-of-way on NE Holladay Street.

Building A Garage Driveway: The garage entry into the two levels of parking located beneath Building A is accessed from a short driveway off NE Oregon Street. This side access reduces the negative visual impact of a garage entrance on the pedestrian realm, and allows commercial uses to line the street frontage. As noted above, despite the fact that this driveway is almost a full city block from NE 25th Avenue, until Phase Two's vertical development is completed, the standard requires landscaping between this driveway and the abutting streets. This condition is complicated by the LU 19-183735 DZM AD Condition of Approval G, which requires that the applicant shall establish a temporary Standard "B" loading space in this area, to serve Building A, and shall use the existing sloped sidewalks for access. The requirement to have a loading space in this location precludes the feasible planting and maintenance of a landscape buffer. Since the remainder of the site between NE 25th and this driveway is intended to be used for construction staging, and will be protected by temporary fencing and screening, the driveway will be adequately screened from NE 25th Avenue.

In each of these locations, the Modification allows the woonerf landscape treatment to be consistent with the expectations for city streets, rather than private driveways. Like other city streets, the woonerf will be lined with trees, planters, seating, and pedestrian-oriented active ground floor uses. These small visual cues support the design intention for this to be a publicly accessible connector that is welcoming and actively used by neighbors, visitors and site residents traveling by foot and by bicycle. Extending this Modification to the short length of the garage-access driveway allows for practical deferral of this

B. Purpose of the standard. *On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*

Findings: The purpose of the setback and landscaping standards are to create an inviting pedestrian environment that is protected from vehicles, and to limit the appearance of vehicle areas from street frontages. Conceptually, the Woonerf aims to create a unique experience for all visitors, defined by the extension of park-like landscape spaces into the middle of its length, thereby forcing vehicles to slow and meander through the site. The middle section of the woonerf also provides a spill-out plaza space with sculptural seats and sculptural tree planters defining the narrowed one-way drive lane. The east and west ends create entry and exit courts, with street trees and short-term bicycle parking.

The purpose of the standard is to encourage safe and attractive pedestrian areas that are buffered from vehicles. The standard is written with the assumption that the buffer exists to separate pedestrians in the public right-of-way from on-site private vehicles. In this case, due to the 24/7 public access easement which ensures the woonerf will function as a publicly accessible connector, the site will not function as the standard assumes. Rather, the meandering woonerf drive lane serves as a traffic calming device, and the entire corridor is designed to create a safe and attractive pedestrian corridor.

The proposed open sidewalk corner with no planting buffer at the parallel parking is consistent with the intent to be safe and attractive. The parallel parking design is consistent with the City's standard parallel parking requirements and is intuitive (and safe) to pedestrians and urban drivers. A row of trees along both the Woonerf and 27th Avenue shade and cool the parking area. Three paving types (two textures and two colors) are proposed to both differentiate and integrate the parking from the woonerf drive lane and sidewalk, and to create a unique, softened, aesthetic within the Woonerf. These elements serve to effectively meet the purpose of the standard to be modified, while also better meeting the design guidelines.

Therefore, this modification merits approval.

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 requirements of Title 11 can be met, and 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.

CONCLUSIONS

The Planned Development review process exists to provide an opportunity for innovative and creative development, in exchange for significant public benefits. The proposal meets the approval criteria and modification criteria and therefore warrants approval**.**

ADMINISTRATIVE DECISION

Approval to revise the findings from the previously approved Pepsi Planned Development (LU 18-248691 PDBM) and the subsequent Design Review for the first phase of development (LU 19-183735 DZM AD) to allow the proposed woonerf to remain privately owned and maintained, and Approval to strike LU 19-183735 DZM AD Condition of Approval E.

Approval of the following Modification requests:

1. Allow the publicly accessible parks to be accessed from a private driveway with a public access easement, rather than from a public street (33.270.200.B).
2. Revise a previously approved Modification (LU 18-248691 PDBM) to increase the maximum building setbacks from a Civic Corridor for all buildings on the site (Table 130-2 and 33.130.215.C).
3. Reduced landscape buffer between vehicle areas and abutting streets (33.266.130.G).

Approval per the approved site plans, Exhibits C-1 through C-7, subject to the following conditions:

A. As part of the building permit application submittal, the following development-related conditions (B through H) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 20-116765 PDB DZM." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

B. The stormwater facility for the proposed woonerf must be installed during the first phase of woonerf construction and must be adequately sized for the full buildout of the woonerf. If an alternate stormwater management system is proposed for the woonerf, it must be reviewed and approved by BES as meeting the SWMM and it must adequately manage triggered impervious surfaces for each phase of development, to the satisfaction of BES. (Per Bureau of Environmental Services)

C. The woonerf shall have 24 hours a day, 7 days a week public access easement that allows the public to utilize the full 50' width of the drive lane and adjacent sidewalks to walk, bike or drive through the site without gates or restrictions.

D. Water may not be accessed from the woonerf. (Per Water Bureau)

E. An interim 50' connection, aligned with NE Pacific Street and spanning from NE 27th Avenue to NE 25th Avenue shall be completed prior to Certificate of Occupancy for Building A (the L-shaped building at the southeast corner of the site that wraps around the Pavilion building on the north and west sides). The interim connection will allow emergency access, one-way vehicle, bike and pedestrian travel but may be developed as a straight, paved, single lane.

F. Substantial completion of each phase of the woonerf shall be completed prior to issuing a final Certificate of Occupancy for the related vertical development in that phase of the Development Project (as detailed in exhibit C.6 and C.7).

G. All elements of the woonerf (as illustrated in exhibit C.6 and LU 19-183735 DZM AD exhibits) shall be constructed, maintained and repaired at the sole cost and expense of the owner or its successors.

H. No field changes.

Staff Planner: Hannah Bryant

Decision rendered by: _____ **on May 27, 2020**
By authority of the Director of the Bureau of Development Services

Decision mailed May 29, 2020

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on February 10, 2020, and was determined to be complete on February 21, 2020.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on February 10, 2020.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended by 30 days (exhibit A.2). Unless further extended by the applicant, **the 120 days will expire on: July 20, 2020.**

Note: some of the information contained in this report was provided by the applicant. As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, 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.

Appealing this decision. This decision may be appealed, and if appealed a hearing will be held. The appeal application form can be accessed at https://www.portlandoregon.gov/bds/45477. Appeals must be received by 4:30 PM on June 12, 2020. **Towards promoting social distancing during the COVID-19 pandemic, the completed appeal application form must be e-mailed to BDSLUSTeamTech@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front

page of this notice about submitting the appeal application. An appeal fee of $250 will be charged. Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations for the appeal of Type II and IIx decisions on property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in the file, please contact the planner listed on the front of this decision. The planner can provide some information over the phone. Please note that due to COVID-19 and limited accessibility to files, only digital copies of material in the file are available for viewing. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at https://www.portlandoregon.gov/citycode/28197.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Design Commission is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Design Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

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 after **June 12, 2020** 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 planned development approval. This 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. If the approved project includes more than one component, such as multiple buildings, or multiple phases that will be broken into separate building permit applications, at least one permit must be obtained within 3 years of the date of this decision, and all permits must be obtained within ten years of the date of this decision. After that ten-year period, a new land use review will be required before permits will be issued for any remaining project components that have not yet been permitted, subject to the Zoning Code in effect at that time.

Expiration of concurrent approvals. The planned development approval also includes concurrent approval of a Design Review with Modification Reviews, and a Planned Development (with Bonus) Amendment Review. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the planned development amendment to be approved; and 2) other approvals that were voluntarily included with the planned development application.

The following approvals were necessary for the planned development to be approved: Design Review with Modifications Reviews, and a Planned Development (with Bonus) Amendment Review. This/these approval(s) expires if:

- The planned development expires, as described above, or
- None of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site within 3 years of the date the planned development approval was rendered.

All other concurrent approvals expire three years from the date the final decision is rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

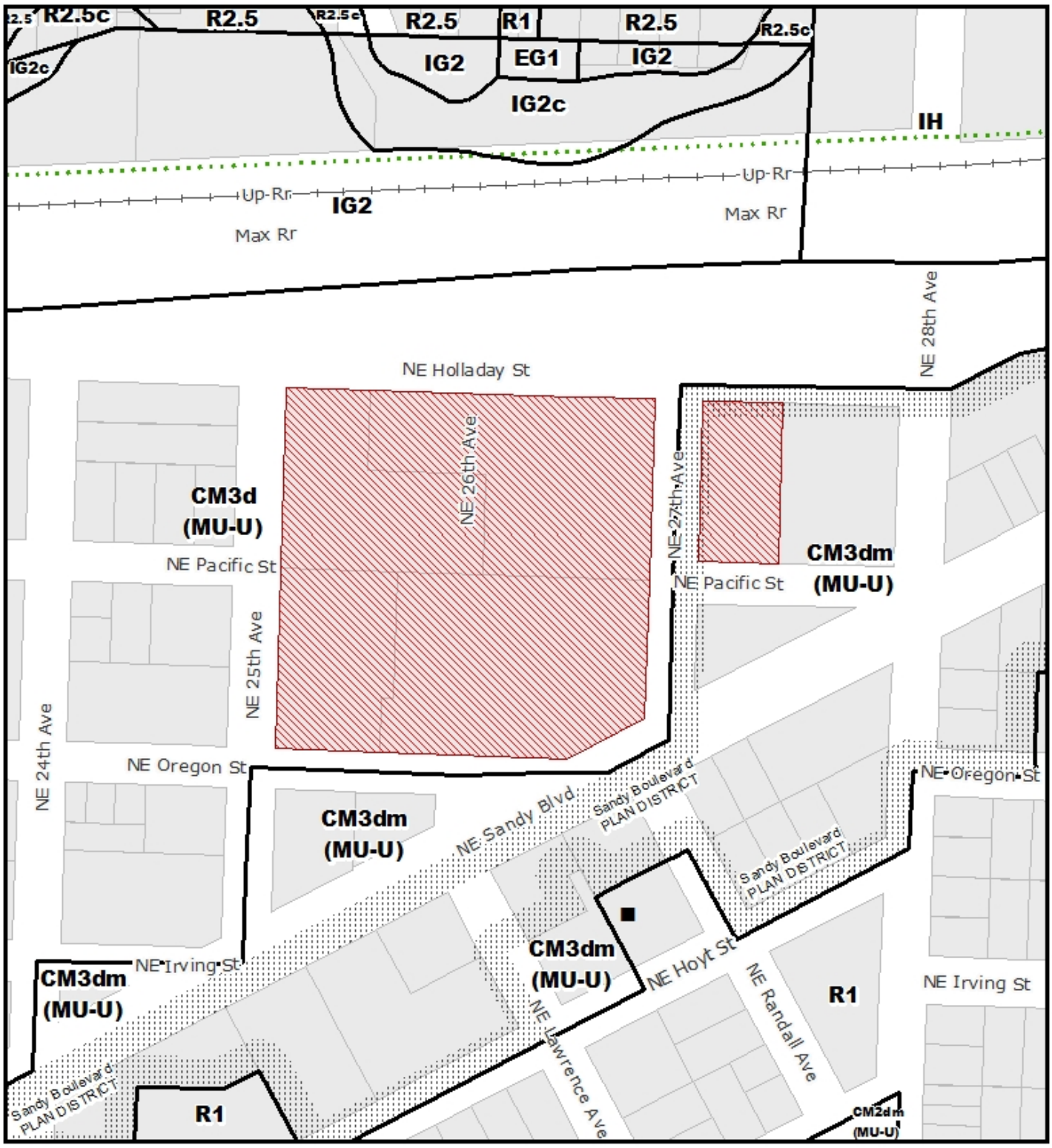
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out this project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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 Submittals
   1. Original Submittal
   2. Extension Request
   3. Draft Development Agreement
   4. 30% PWP Submittal
B. Zoning Map (attached)
C. Plans/Drawings:
   1. Site Plan (attached)
   2. Updated Open Space Plan
   3. Landscape Modification Diagram
   4. Revised Boundary Plan (showing easements)
   5. Woonerf Sections (3 sheets)
   6. Woonerf Phasing Plan (4 sheets)
   7. Site Phasing Plans (4 sheets)
D. Notification information:
   1. Mailing list
   2. Mailed notice
E. Agency Responses:
   1. Bureau of Environmental Services
   2. Site Development Review Section of BDS
   3. Fire Bureau
   4. Bureau of Parks, Urban Forestry Division
   5. Bureau of Transportation Engineering and Development Review
   6. Water Bureau
F. Correspondence: None
G. Other:
   1. Original LU Application

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING

NORTH

SANDY BOULEVARD PLAN DISTRICT

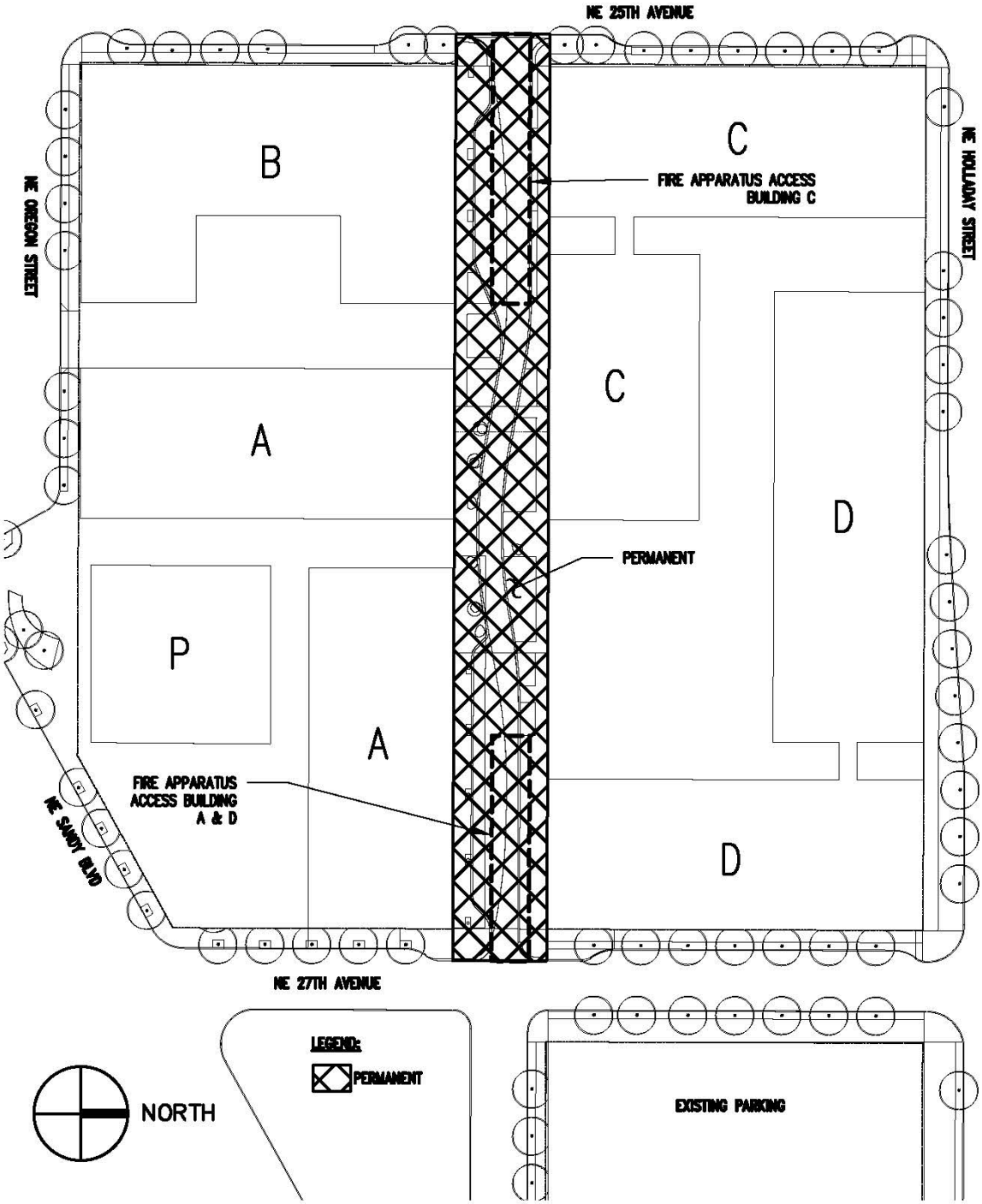
Site

Historic Landmark

Recreational Trails

File No.	LU 20 - 116765 PDB
1/4 Section	2933
Scale	1 inch = 163 feet
State ID	1N1E36BC 12004
Exhibit	B Feb 24, 2020

EXHIBIT B-4



PHASE 4