



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

Ted Wheeler, Mayor  
Rebecca Esau, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**FINAL FINDINGS, CONCLUSIONS AND DECISION OF THE  
CITY OF PORTLAND ADJUSTMENT COMMITTEE**  
ON AN  
**APPEALED ADMINISTRATIVE DECISION**  
**(TYPE II PROCEDURE)**

**Case File Number: LU 19-247542 AD (2901 NW Front Ave)**

The Administrative Decision for this case was appealed by Dean Alterman to the City of Portland Adjustment Committee. The Adjustment Committee granted the appeal in part and modified the Administrative Decision that approved the requested Adjustment.

### GENERAL INFORMATION

**Applicant/Owner:** Oseran Investment Company LLC  
Attn.: Melanie Lane  
2455 NW Marshall St., #4  
Portland, OR 97210

**Site Address:** 2901 NW FRONT AVE

**Legal Description:** TL 900 1.89 ACRES, SECTION 28 1N 1E  
**Tax Account No.:** R941280320  
**State ID No.:** 1N1E28BD 00900  
**Quarter Section:** 2727

**Neighborhood:** None  
**Business District:** Northwest Industrial, contact Harold Hutchinson at  
[haroldh@nwindustrial.org](mailto:haroldh@nwindustrial.org)  
**District Coalition:** None

**Zoning:** **IHk** (Heavy Industrial or "IH" base zone with Prime Industrial or "k" overlay zone), **Guild's Lake Industrial Sanctuary Plan District**

**Case Type:** **AD** (Adjustment Review)  
**Procedure:** **Type II**, an administrative decision by staff with appeal rights to the City of Portland Adjustment Committee.

### Proposal

The applicant owns and operates an industrial building in Northwest Portland at 2901 NW Front Avenue, which was originally constructed in the mid-1990s. At the time of development for the existing structure and vehicle parking, loading and circulation areas, the applicant received approval for an Adjustment to reduce the perimeter parking lot landscaping depth along NW Front Avenue from 5'-0" to 3'-6" deep, and to reduce the minimum building setback along NW Sherlock Avenue from 5'-0" to 0 (LUR 92-00494 AD). This prior land use review was subject to conditions requiring 3'-0" of additional landscaping in the public right-of-way in NW Front Avenue just behind the sidewalk, as well as additional groundcover plantings beyond what was shown on the original landscape plan for the project.

At present, a new tenant (Statements Tile) is doing tenant improvement work to occupy a portion of the building, and the value of the work on the building triggers upgrades to nonconforming development, including parking lot landscaping. In order to get the permit

issued, the applicant was required to show additional trees, shrubs and groundcover plantings installed in the existing perimeter and interior parking lot landscape beds (19-116012 CO). The new plantings included 13 new trees, 37 new shrubs, and over 200 new groundcover plantings (see attached Exhibit C.1).

Originally, the applicant wanted to avoid installing any new landscaping on the site in the interior parking areas of the site, including new trees in the interior landscape beds directly adjacent to the street-facing windows on the building, as well as new shrubs and groundcover plants. With 60 on-site parking stalls, the code would require 2,700 square feet of interior parking lot landscaping with 30 small trees, as well as 90 shrubs, and groundcover plants on the remainder of the interior parking lot landscaped areas (Zoning Code Section 33.248.020.H). The applicant proposed providing approximately 2,015 square feet of interior parking lot landscaping, including three small trees and approximately 55 shrubs, with no new groundcover on existing interior landscaping areas; no living groundcover exists today. In the Administrative Decision for the requested Adjustment, Bureau of Development Services (BDS) staff instead approved 2,575 square feet of interior landscaping, which included 26 trees, 90 shrubs, and complete groundcover. The Administrative Decision approval also required the interior landscaping to be placed in landscaping islands in four distinct zones in the approved Exhibit C.1.

The applicant filed an appeal to the Administrative Decision, requesting that the Administrative Decision be overturned and original proposal approved. The decision herein represents the final decision of the Adjustment Committee on the requested appeal.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Chapter 33.805 of the Portland Zoning Code.

## ANALYSIS

**Site and Vicinity:** The site was developed as a speculative single-story industrial structure for a mixture of tenants in the 1990s. Located along NW Front Avenue not far from downtown, the building is set back from the NW Front Avenue streetscape with a surface parking and truck loading area. Landscaping with a mostly-continuous row of shrubs is located along the NW Front Avenue streetscape immediately behind the sidewalk, and there are other landscaped islands throughout the complex that also include shrubs and trees. Mature vine maple shrubs have attained small tree-like stature and height in some of the interior parking lot landscape strips near the building. Significant portions of the existing landscape beds have a bare ground or mulch surface instead of the required living groundcover.

The site abuts a remnant rail spur with truck driveways atop or next to the rails in private tracts along both the north and south property lines. The site abuts NW Sherlock Avenue on the west, which abuts a rail-only right-of-way west of the NW Sherlock roadway. Northwest Sherlock Avenue is improved with an asphalt roadway with curbing along the rail right-of-way and a curb-tight sidewalk on the east frontage abutting the subject site. Northwest Front Avenue has an improved roadway with two-way traffic, bike lanes and curb-tight public sidewalks. Nearby uses and developments are exclusively industrial in nature, including warehouses, manufacturing firms and exterior storage yards and work areas.

**Zoning:** The Heavy Industrial (IH) base zone is one of three zones that implement the Industrial Sanctuary map designation in Portland's Comprehensive Plan. The zone provides a location for all industrial uses to locate, including those that might be found objectionable in other locations due to their objectionable impacts or appearance. The development standards

are the minimum necessary to assure safe, functional, efficient, and environmentally sound development.

The Prime Industrial or “k” overlay zone is intended to protect significant industrial lands, and to ensure an industrial use with additional use and development regulations. The overall goal is to preserve and enhance the availability of industrial lands. Similarly, the Guild’s Lake Industrial Sanctuary plan district seeks to preserve and enhance the industrial character of this prime area near the central city, preventing the displacement of industrial uses by incompatible investments and activities.

Regulations applicable to all parking areas in the City of Portland seek to provide safe, attractive vehicle areas. Landscaping in parking areas is required not just for visual benefits, but also to promote shading and cooling of large paved areas, and to mitigate for environmental impacts associated with pollution and stormwater, etc.

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

- *ADJ 020-87* – Adjustment from 1987 on subject site and parcel to south across the rail-owned rail spur parcel bisecting the 1987 Adjustment site. City of Portland electronic record shows case was approved but no further details are available in the electronic file.
- *LUR 92-00494 AD* – Approved 1992 Adjustments on the subject site at the time of initial development for the existing structure. The front building setback along NW Sherlock Avenue was reduced from 5 to 0 feet, and the perimeter parking lot landscape strip along NW Front Avenue was reduced from 5 to 3.5 feet, subject to a condition of approval (A) requiring the applicant to plant and maintain three feet of public right-of-way behind the sidewalk, and to add periwinkle groundcover between the parking lot and the laurel hedge along NW Front Avenue.

**Summary of Applicant’s Statement:** The applicant submitted both an original (Exhibit A.1) and revised (Exhibit A.2) application narrative. As clarified by BDS staff in both the incomplete letter (Exhibit G.2) and subsequent e-mail correspondence (Exhibit G.5), staff is not processing an Adjustment to the “trigger” standard requiring nonconforming site upgrades, but rather to discrete parking lot landscaping standards. In contrast to statements made in these narratives, BDS staff counts 60 (versus 57) parking stalls on the site, and calculated that qualifying interior parking lot landscaping amounted to 2,015 versus 3,000 square feet.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **December 3, 2019**. The following Bureaus responded:

The *Bureau of Environmental Services* (BES) reviewed the proposal and responded with comments and a recommendation. BES did not recommend approval of the Adjustment. BES noted in their response that their mission includes the protection of public health, water quality and the environment by providing sewage and stormwater collection and treatment services, and by protecting the quality of surface and ground waters. Landscaping is needed to mitigate some of the negative impacts of streets and parking areas in the Willamette River watershed. New landscaping will have a dual benefit that is aligned with the two prongs of BES’s mission:

1. Landscaping will help by lowering the temperature of runoff, facilitating infiltration of stormwater which recharges groundwater, and increasing and cooling base flows that will eventually flow into the Willamette River; and
2. Landscaping will help the public conveyance system by intercepting stormwater thereby reducing peak flow – and reducing the total volume – of runoff that is conveyed to the public sewer system.

BES did not support the original Adjustment request to reduce the required landscaping, and specifically did not support the reduction in the number of trees planted. BES noted that the applicant will be required to comply with all stormwater management and sanitary sewer connection issues during any future permitting or redevelopment at the site. Exhibit E.1 contains BES staff contact and additional information.

The *Development Review Section of Portland Transportation* (PBOT) reviewed the proposal for transportation-related approval criteria, and for potential impacts upon the public rights-of-way. Transportation staff had no objections to the proposal, as there are no transportation-related approval criteria. Exhibit E.2 contains PBOT staff contact and additional information.

The *Life Safety Section of the Bureau of Development Services* reviewed the proposal and responded with no objection. Based on the information provided, there appear to be no conflicts between the proposal and applicable building codes. Exhibit E.6 contains Life Safety staff contact and additional information.

The following agencies reviewed the proposal and responded without comment or concern:

- The *Water Bureau* (Exhibit E.3);
- The *Fire Bureau* (Exhibit E.4); and
- The *Site Development Section of BDS* (Exhibit E.5).

**Neighborhood Review:** No written responses were received from either the Neighborhood Association or notified property owners in response to the mailed Notice of Proposal.

**Public Hearing:** On March 10, 2020, the Adjustment Committee held a public hearing to consider an appeal submitted by Dean Alterman of the Administrative Decision on this case. The appeal was limited to the Administrative Decision that required a total of 2,575 square feet of interior parking landscaping, which included 26 trees, 90 shrubs and new landscape islands in four distinct zones.

Mark Moffett, Senior Planner with Land Use Division of and the case planner for this review, made a PowerPoint presentation (Exhibit H.4) that included a brief summary of the proposal, slides of the subject site and surrounding neighborhood, a summary of BDS' findings related to the Adjustment approval criteria, and a summary of key issues raised in the appellant's statement.

Following BDS' presentation, the appellant, Dean Alterman, testified in support of the appeal. The Adjustment Committee asked questions of City staff and the appellant/applicant to get a better understanding of what was proposed, approved, and what the reasoning for the adjustment was. Considering the questions asked and concerns raised, the appellant/applicant proposed to draft and submit an updated landscaping plan that addressed the Adjustment Committee's concerns and questions. The Adjustment Committee continued the hearing to June 2, 2020, to provide time for the appellant/applicant to update the landscape plan, provide it to City staff, and for City staff to review the plan and provide a recommendation to the Committee. The appellant/applicant provided an updated landscaping plan to staff end of day June 1, 2020 (Exhibit H.5).

The hearing recommenced on June 2, 2020. City staff did not conduct an evaluation of the updated landscape plan as the plan was not provided early enough to allow for a review before the hearing. At the continued hearing, the Adjustment Committee heard further from City staff and the appellant/applicant. The Committee closed the record, deliberated on the evidence in the record and took a tentative vote of 4-1 to grant the appeal in part and modify the Administrative Decision. The Committee directed BDS staff to prepare findings supporting its

decision. The consideration and adoption of the revised findings occurred at the Committee's meeting on June 9, 2020.

## **ZONING CODE APPROVAL CRITERIA**

### **33.805.010 Purpose**

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

### **33.805.040 Approval Criteria**

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

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

**Findings:** The purpose statement for the parking setback and landscaping standards, including interior parking lot landscaping which is the subject of this review, is as follows (relevant excerpts from 33.266.130.A):

“The setback and landscaping standards:

- Improve and soften the appearance of parking areas;
- Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones;
- Provide flexibility to reduce the visual impacts of small residential parking lots;
- Direct traffic in parking areas;
- Shade and cool parking areas;
- Reduce the amount and rate of stormwater runoff from vehicle areas;
- Reduce pollution and temperature of stormwater runoff from vehicle areas; and Decrease airborne and waterborne pollution.”

The requested Adjustment was triggered by a recent building permit (19-116012 CO) for a new industrial tenant at the site (Statements Tile) which triggered upgrades to nonconforming development. In order to get the permit issued, the applicant identified sufficient new plantings in the interior and perimeter parking areas to get the permit issued, as the 10% project valuation limit had been reached with the expense involved around installing the new plant materials. With the upgrades, it was determined that the perimeter parking lot landscaping areas would meet code, and that sufficient movement had been made towards meeting the interior standard to issue the permit.

The purpose for the interior parking lot landscaping standard, as noted above, includes the goal of softening and improving the appearance of parking areas while reducing their visual impact from sidewalks and public streets. At this site, the perimeter parking lot landscaping provides a low screen of shrubs and trees along most of the NW Front Avenue streetscape, but the multiple wide driveways also allow significant views directly to the interior of the site and the surface parking area. The interior of the

parking lot on the site has the appearance of one continuous open area with dark asphalt paving and areas of landscaping arranged around the edges, but not extending significantly into the open paved interior of the parking area. Interior landscaping at the parking lot includes small island areas at the north and south edges of the building which have some mature vine maple shrubs that have attained tree-like height of approximately 10 feet tall, as well as narrow “foundation planting” areas with low shrubs directly up against the building wall.

The existing site includes a parking area with an oversized private circulation aisle width of approximately 24 feet running the length of the site along NW Front Avenue. There is a gap of approximately 60 feet between the “foundation plantings” right up against the building with the nearest plantings right behind the sidewalk. The unbroken paving in the center of the parking area between the building and NW Front Avenue measures approximately 60 feet deep by 380 feet long, for an area covering over 22,000 square feet or over half an acre.

The Adjustment Committee has considered both the landscape plan (Exhibit C.1) and conditions of approval required in the Administrative Decision as well as the revised landscape plan submitted by the appellant/applicant as part of this appeal (Exhibit H.5). In summary, the Committee finds the appellant/applicant revised landscape plan (Exhibit H.5) equally meets the purpose of the parking lot landscape regulations if the plan reflects, and is modified as necessary, to include the following:

- Include the code required number of shrubs and groundcover in the interior landscaping;
- Reduce the size of the interior parking lot landscape area from 2,700 to 2,355 square feet (33.266.130.G.3.a);
- Reduce the number of small interior landscaping trees required from 30 to 7 (33.266.130.G.3.b/33.248.020.H.2.a);
- Remove the seven Paperbark Maples against the building approved under building permit 19-116012 CO from the landscape plan;
- Require two landscaped islands measuring 8.5 x 16-feet within in the interior of the parking lot closest to the north face of the building and one triangular landscaped island within the northwest interior of the parking lot adjacent to NW Front as seen on the approved site plan (Exhibit H.7)

This conclusion based on the factors described below.

In terms of softening and improving the appearance of parking area in its entirety and diminishing the visual impact from the public street and sidewalk, the Adjustment Committee finds this is accomplished with the additional plantings included in the perimeter landscape in combination with the existing and new interior parking lot landscaping. In particular, the three additional landscape islands included within the interior of the parking lot will provide a visual break to the continuous paved hardscape. These landscaped islands will break up an approximately 370-foot continuous area of paved area and provide tree canopy for shade and shrubs and ground cover for water infiltration.

The Adjustment Committee finds adding the three landscape islands for interior landscaping will eliminate two parking spaces and the associated required landscaping for each (45 square feet per parking space under 33.266.130.G.3.a). The reduction of parking spaces and increase in landscaping not only brings the site closer to compliance to the code requirements but also meets the purpose of the interior landscaping to soften and improve the appearance of the site. The applicant has also

proposed additional new trees on the northwest perimeter of the site adjacent to other parking that will visually appear as interior landscaping as seen from the street and two new trees on the easterly perimeter of the site at the parking entrance. The three new landscape islands will also provide three new trees above what was originally proposed. The increase in interior parking lot landscaping to 2,355 square feet means the entire site of approximately two-acres will only be 355 square feet short of the regulatory standard.

Landscaping taking up the equivalent of two and a half parking spaces will also allow new trees to be planted on the site, which otherwise would be difficult given the size, location and existing plantings on the site. With this approval, a total of 11 new trees will be planted on the site (8 in the perimeter landscaped area and three in the interior of the parking lot). These additional trees in combination with 21 existing trees and 6 vine maples (that while not classified as trees under Portland's Plant list, provide tree-like canopy due to their size) will provide sufficient tree canopy and water filtration.

Minimum parking ratios for the industrial uses at the site are generally one parking space per every 750 square feet of net building area in an industrial use. With approximately 39,000 square feet of floor area, at least 52 parking spaces are required. Eliminating two of the sixty existing parking spaces would still allow the site to meet minimum parking standards of 52 stalls, and in any event the minimum parking could be reduced by-right if stalls were removed to provide required interior parking lot landscaping (33.266.130.G.3.e).

The Adjustment Committee finds that in order to at least equally meet the intent of visually screening and improving the appearance of the parking lot, the applicant should provide the equivalent of two and a half parking spaces, or 340 square feet of additional interior landscaping. Because of the mature trees on the site and limited space to plant new trees, it is reasonable to reduce the minimum number of interior small trees from 30 to 7, as noted above. As described, this criterion is met with regards to the visual screening and appearance aspects of the purpose statement.

The purpose for the interior parking lot landscaping standard also seeks to direct traffic in parking areas. There is a generous on-site circulation aisle that exceeds the code requirement of 20 feet, with an approximately 24-foot wide two-way aisle running down the middle of the parking area. Existing curbed landscape areas direct traffic away from landscaped areas, and future plantings could occur in individual parking spaces without impacting site traffic circulation. With regards to directing traffic in parking areas, this criterion is met.

The purpose for the interior parking lot landscaping standard also seeks to shade and cool parking areas, as well as to reduce the amount and rate of stormwater runoff from vehicle areas while decreasing airborne and waterborne pollution. BES reviewed the original proposal and responded with concerns about reducing the amount of landscaping on the site, and specifically objected to the reduced number of trees (Exhibit E.1). BES objections stressed that "landscaping is needed to mitigate some of the negative impacts of streets and parking areas in the Willamette River watershed. New landscaping will have a dual benefit that is aligned with the two prongs of BES's mission:

1. *Landscaping will help by lowering the temperature of runoff, facilitating infiltration of stormwater which recharges groundwater, and increasing and cooling base flows that eventually flow into the Willamette River; and*

2. *Landscaping will help the public conveyance system by intercepting stormwater thereby reducing the peak flow – and reducing the total volume – of runoff that is conveyed to the public sewer system.”*

As noted earlier in these findings, an additional 340 square feet of parking lot landscaping and the combined perimeter and interior trees will equally meet the visual screening elements of this criterion. Considering the new and existing trees, there will be pollution reduction and overall cooling effects as required.

To provide the greatest shading and cooling benefit, the landscaping islands need to be spaced and not consolidated. As such, a condition of approval will require the landscape islands to be placed in zones to ensure appropriate spacing. With this condition of approval, the portions of the purpose statement relating to shading and cooling and stormwater-related pollution can be equally met.

The Adjustment Committee finds reducing the required interior landscaping from 2,700 to 2,355 square feet, and a reduction from 30 to 7 small interior trees, the visual and screening elements of this criterion can be met. With a condition of approval requiring three distinct landscape beds (two of 136 square feet and one triangular shaped island of 68 square feet) totaling 340 square feet, spaced throughout the distinct zones of the parking area, the shading/cooling and stormwater-related elements of this criterion can be met.

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

**Findings:** The Heavy Industrial (IH) base zone on the site is an I zone. The classification of adjacent streets has been reviewed by staff from Portland Transportation in the context of this Adjustment for any approvability issues. The proposal involves an existing industrial multi-tenant building in an industrial district, and no new development or street access is proposed. Northwest Front Avenue is a City Bikeway, City Walkway, Transit Access and Local Collector Traffic Street, and the site is in a Freight District.

Modifications to landscaping have no impact on street classifications or street traffic and capacity per se, and Portland Transportation staff have responded to the request with no concerns or objections (Exhibit A.2). With regards to street classifications, this criterion is met.

The desired character of the area is defined by the purpose or character statements for the base zone, overlay zone and plan district.

The general purpose of the IH zone is as follows (33.140.010):

“The employment and industrial zones are for areas of the City that are reserved for industrial uses and for areas that have a mix of uses with a strong industrial orientation. The zones reflect the diversity of industrial and business areas in the City. The zones differ in the mix of allowed uses, the allowed intensity of development, and the development standards. The regulations promote areas which consist of uses and developments which will support the economic viability of the specific zoning district and of the City. The regulations protect the health, safety and welfare of the public, address area character, and address

environmental concerns. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed.”

The characteristics statement for the IH zone is as follows (33.140.030.D):

“This zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where all kinds of industries may locate including those not desirable in other zones due to their objectionable impacts or appearance. The development standards are the minimum necessary to assure safe, functional, efficient, and environmentally sound development.”

The purpose of the Prime Industrial (“k”) overlay zone is as follows (33.471.010):

“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.”

The purpose of the Guild’s Lake Industrial Sanctuary plan district is as follows (33.531.010):

“The Guild’s Lake Industrial Sanctuary plan district fosters the preservation and growth of this premier industrial area adjacent to Portland’s central city. The plan district’s large number of well-established industrial firms are dependent on the area’s multimodal transportation system, including marine, rail, and trucking facilities, and on the ability of area streets to accommodate truck movements. Because of its proximity to inner-city neighborhoods with high concentrations of commercial and residential uses, the Guild’s Lake Industrial Sanctuary is particularly vulnerable to impacts from, and redevelopment to, nonindustrial uses. The provisions of the plan district recognize that the displacement of industrial uses by inappropriate nonindustrial uses potentially threatens the integrity of this district and investments in public and private infrastructure. The provisions of this chapter protect the area from incompatible uses which threaten the district’s integrity, stability and vitality and compromise its transportation system. This chapter also includes provisions to ensure a more pedestrian- and transit-oriented streetscape along NW Vaughn Street and an improved interface with the mixed-use neighborhood to the south.”

The proposal is consistent with all of the above purpose statements, as the proposal does not impact the uses on the site which are industrial in nature, and because the site is already connected to public infrastructure and the street and railway transportation network. Nothing about the requested reduction in interior parking lot landscaping at the site is specific to the industrial uses which will remain in place, and the intrusion of non-industrial uses to the site is not proposed. In order to address environmental concerns and ensure environmentally sound development, a modest reduction in the size and minimum tree requirement for the existing parking lot is

warranted. The approved landscaping plan allowing some reduction in overall area and the number of trees meets this criterion.

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

**Findings:** Only one adjustment is requested. This criterion is not applicable.

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

**Findings:** City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** No discernible impacts will result from granting the requested adjustment. This criterion is met.

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

**Findings:** Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental Conservation overlay zone). As the site is not within an environmental zone, this criterion is not applicable.

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to demonstrate conformance with all 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 via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

The applicant has requested an Adjustment to eliminate all new upgrades to the parking lot landscaping over what is in place on the site today. After conducting a duly held appeal hearing, the Committee concludes reducing the amount of interior landscaping from 2,700 square feet to 2,355 square feet and reducing the number of required interior trees to a total of 7 equally meets the purpose of the regulations with the additional planting of 6 Callery Pear trees along the northwesterly parking area lot perimeter, the planting of 2 Callery Pear trees along the southeasterly parking lot perimeter and the retention of the 21 existing trees as seen on the approved landscape plan.

## ADJUSTMENT COMMITTEE DECISION

Grant the appeal in part and modify the Administrative Decision, thereby approving an Adjustment to the interior parking lot landscaping standards as follows:

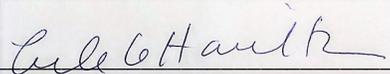
- Include the code required number of shrubs and groundcover in the interior parking lot landscaping;
- Reduce the area of interior parking lot landscaping from 2,700 to 2,355 square feet (33.266.130.G.3.a);
- Reduce the number of required interior parking lot landscaping small trees from 30 to seven (33.266.130.G.3.b/33.248.020.H.2.a);
- Remove the seven proposed Paperbark Maples against the north face of the building approved under building permit 19-116012 CO from the landscape plan;
- Require two landscaped islands each measuring 8.5 x 16-feet within the interior of the parking lot along the north building face (Zones 1 and 2); and one triangular landscaped island of at least 68 square feet in area within the northwest interior of the parking lot adjacent to NW Front as seen on the approved landscape plan (Exhibit H.7).

The landscape upgrades stated above must be implement as part of improvements associated with building permit 19-116012 CO.

This approval is granted based on the approved site plan H.7 dated June 9, 2020, and subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits H.7. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 19-247542 AD. No field changes allowed."

**These findings, conclusion and decision were adopted by the City of Portland Adjustment Committee on June 9, 2020.**

By:   
\_\_\_\_\_  
**Leslie Hamilton, Chair**

**Date Final Decision Effective/Mailed: June 16, 2020**

**120<sup>th</sup> day date: June 23, 2020**

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

**Procedural Information.** The application for this land use review was submitted on **October 31, 2019**, and was determined to be complete on **November 26, 2019**.

*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 **October 31, 2019**.

*ORS 227.178(1)* 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 a total of 90 days. Unless further extended by the applicant, **the 120 days will expire on: June 23, 2020**.

**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 is final and becomes effective the day the notice of decision is mailed (noted above). This decision may not be appealed to City Council; however, it may be challenged by filing a “Notice of Intent to Appeal” with the State Land Use Board of Appeals (LUBA) within 21 days of the date the decision is mailed, pursuant to ORS 197.620 and 197.830. A fee is required, and the issue being appealed must have been raised by the close of the record and with sufficient specificity to afford the review body an opportunity to respond to the issue. For further information, contact LUBA at the 775 Summer Street NE, Suite 330, Salem, OR 97301 [Telephone: (503) 373-1265].

**Recording the final decision.**

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

- The final decision will be recorded after June 16, 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 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.

**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:

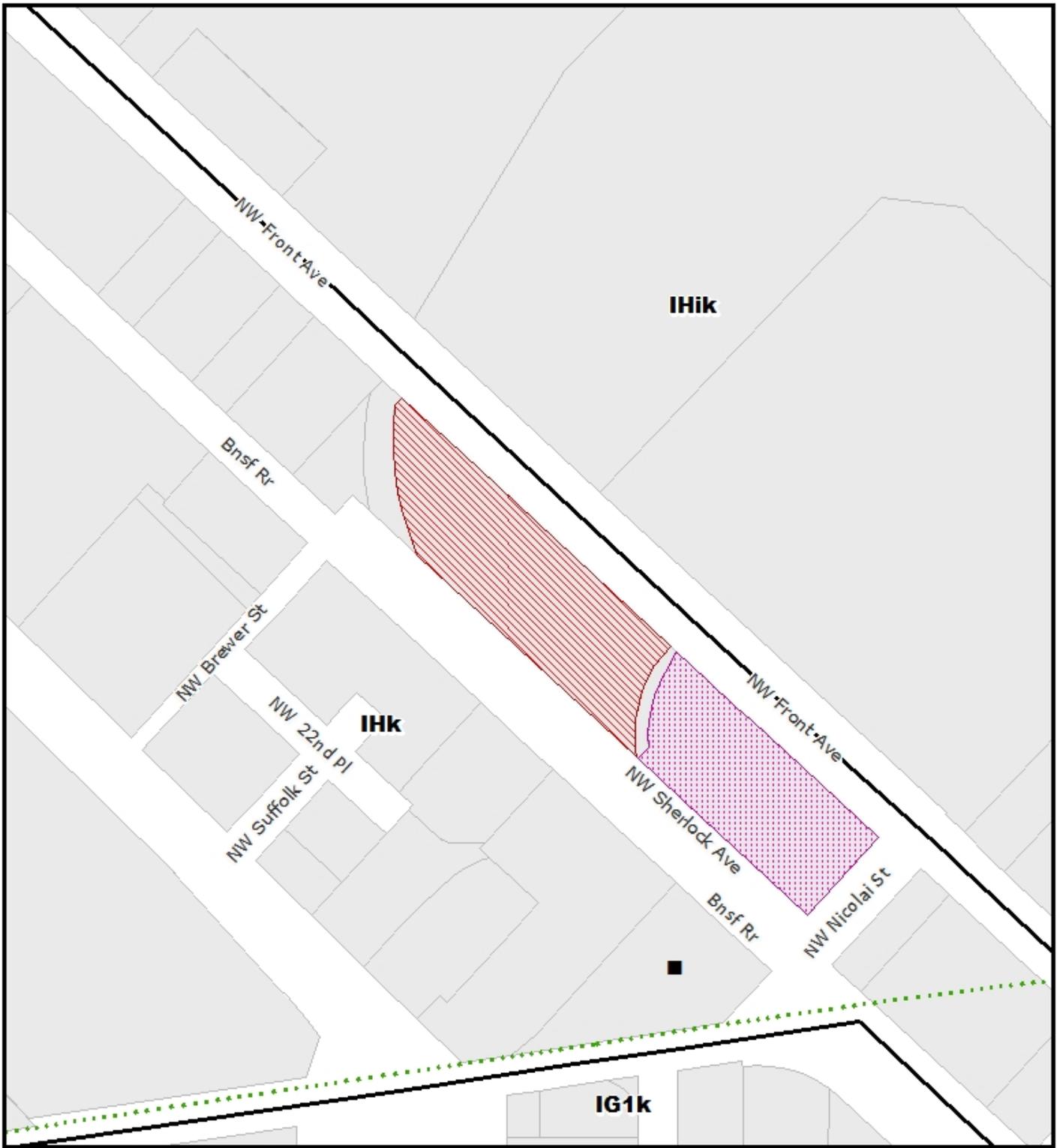
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements
  - 1. Original narrative statement, including attachments
  - 2. Revised narrative and attachments, rec'd. 11/21/19
  - 3. Large, scalable original/existing site plan and elevations, rec'd. 11/26/19
- B. Zoning Map (attached)
- C. Plans/Drawings
  - 1. Site Plan (attached)
- D. Notification information:
  - 1. Mailing list and public notice
  - 2. Postmarked, mailed copy of public notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Development Review Section of Portland Transportation
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Section of the Bureau of Development Services
  - 6. Life Safety Section of the Bureau of Development Services
- F. Correspondence (*none received at time of decision mailing*)
- G. Other:
  - 1. Original LU application form and receipt
  - 2. Incomplete letter from staff to applicant, sent 11/15/19
  - 3. Decision from prior Adjustment for landscaping, LUR 92-00494 AD
  - 4. E-mail from staff to applicant regarding need for scalable plans, sent 11/25/19
  - 5. E-mail from staff to applicant regarding limited scope of Adjustment, sent 11/27/19
  - 6. Recent permit checksheet and staff calculation plan/notes from Adjustment
- H. Hearing Exhibits
  - 1. January 17, 2020 Administrative Decision
  - 2. Completed Appeal Form
  - 3. February 6, 2020 Appeal Notice
  - 4. Hearing PowerPoint Presentation
  - 5. Applicant's June 1, 2020 Updated Landscaping Plan and Email
  - 6. Continued Hearing PowerPoint Presentation
  - 7. Adjustment Committee Approved Site Plan

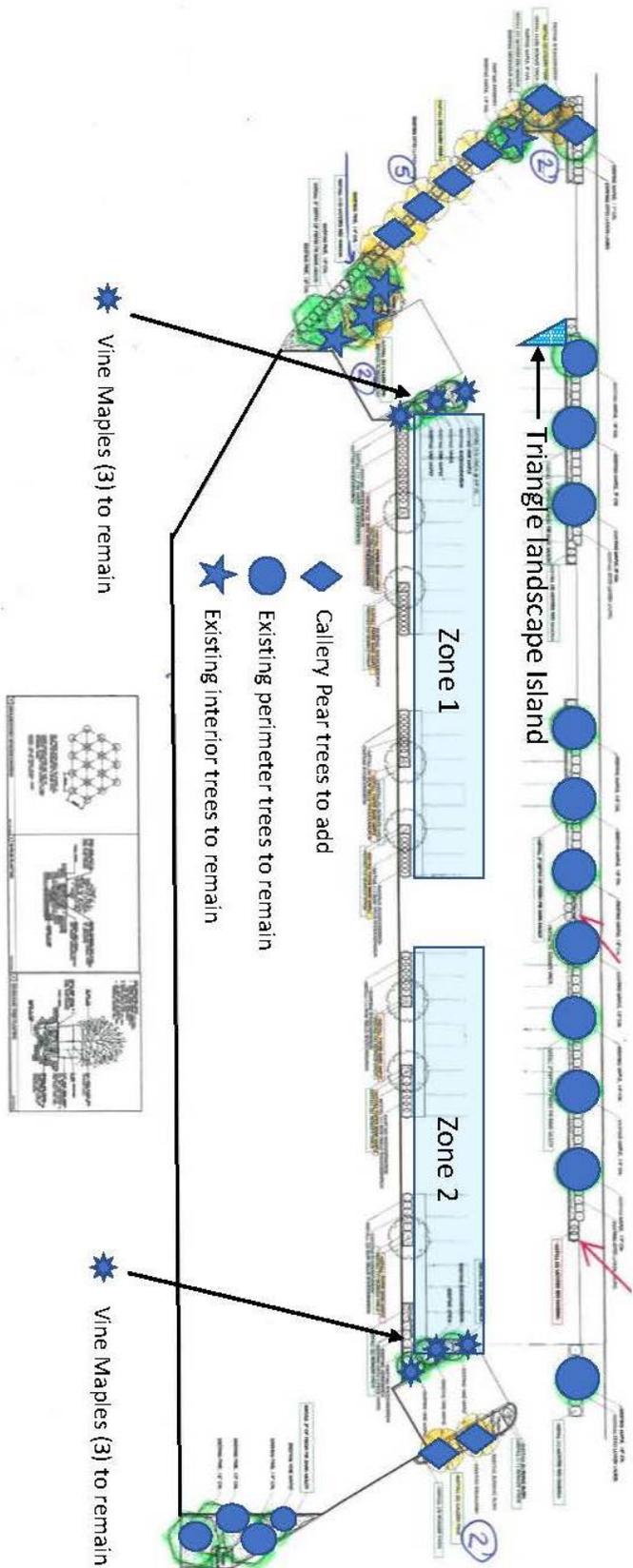
**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**



**ZONING**   
 GUILDS LAKE PLAN DISTRICT

-  Site
-  Also Owned Parcels
-  Historic Landmark
-  Recreational Trails

File No.	LU 19 - 247542 AD
1/4 Section	2727
Scale	1 inch = 200 feet
State ID	1N1E28BD 900
Exhibit	B Nov 01, 2019



Applicant also required to:

- Add 1 tree within the triangle landscape island
- Add 1 landscape island with at least 1 tree to both Zone 1 and Zone 2

