

**IN THE CITY COUNCIL OF THE  
CITY OF  
PORTLAND OREGON**

**IN THE MATTER OF A LAND USE REVIEW  
BY SCOTT KERMAN, BLANCHET HOUSE OF HOSPITALITY, OF A TYPE 4 DEMOLITION  
REVIEW AND ADJUSTMENT REVIEW FOR THE PROPERTY AT THE ADDRESS 340 NW  
GLISAN STREET**

**LU 21-029602 DM AD**

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**FINDINGS AND CONCLUSIONS**

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**ADOPTED BY THE CITY COUNCIL ON  
AUGUST 18, 2021  
(APPROVAL of the Demolition Review and Adjustment Review)**

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**FINDINGS AND CONCLUSIONS**

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The findings and conclusions of the City Council in this matter are set forth below.

**GENERAL INFORMATION**

**Representative:** Gary Golla, Sera Architects, [garyg@seradesign.com](mailto:garyg@seradesign.com)  
338 NW 5th Ave  
Portland, OR 97029

**Applicant:** 340 NW Glisan LLC  
310 NW Glisan St  
Portland, OR 97209

Scott Kerman, Blanchet House Of Hospitality  
310 NW Glisan St  
Portland OR 97029

**Site Address:** **340 NW GLISAN ST**  
**Legal Description:** BLOCK 25 W 1/2 OF LOT 7, COUCHS ADD  
**Tax Account No.:** R180201770  
**State ID No.:** 1N1E34CA 00800  
**Quarter Section:** 3029

**Neighborhood:** Old Town Community Association, contact Brian Harvey at [planning@pdxoldtown.org](mailto:planning@pdxoldtown.org)

**Business District:** Downtown Retail Council, contact at [lfrisch@portlandalliance.com](mailto:lfrisch@portlandalliance.com) & Old Town Community Association, contact at [chair@PDXoldtown.org](mailto:chair@PDXoldtown.org)

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

**Plan District:** Central City - Old Town/Chinatown  
**Zoning:** CXd, Central Commercial with design overlay  
**Case Type:** DM – Demolition Review; AD – Adjustment Review  
**Procedure:** Type IV.

**Proposal:**  
The Applicant, 340 NW Glisan LLC, which is wholly owned by Blanchet House of Hospitality (“Blanchet House”), seeks approval to demolish the vacant Blanchet House, a Contributing Resource in the New Chinatown/Japantown National Register Historic District. The Blanchet

House operation previously relocated to a new building at 310 NW Glisan and the subject property has been vacant for the past 9 years.

Additionally, the Applicant seeks an Adjustment from PCC 33.445.330.A.2.c which provides that a demolition permit cannot be issued until a permit for a new building on the site has been issued that replaces the historic resource if demolition is approved. The Applicant requests to secure the demolition permit prior to submitting a building permit for any new development on the site.

Type IV Demolition Review is required in order to obtain approval for demolition of contributing resources in historic districts. The Type II Adjustment Review is required to issue the demolition permit before any new building permit for redevelopment of the site. Both Reviews will be processed at the same time as part of the Type IV Demolition Review process.

### **Approval Criteria:**

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

- 33.846.070 Demolition Review
  - 33.846.080.C.1. *Denial of a demolition permit would effectively deprive the owner of all reasonable economic use of the site*
- 33.805 Adjustment Review
  - Adjust 33.445.330.A.2.c which requires a new building permit to issue before the demolition permit can be issued.

### **Procedural History:**

- The application was submitted March 25, 2021 and deemed completed on April 24, 2021.
- The site was posted on May 15, 2021 and a Notice of Proposal was mailed on May 25, 2021 to surrounding neighbors and neighborhood associations citing the date of the Public Meeting with the Historic Landmarks Commission and the date of the Public Hearing with Portland City Council.
- A Public Meeting with the Historic Landmarks Commission was held on June 14, 2021 at 1:30 PM.
- A City Council Hearing was held on June 30, 2021. At that time the record was closed and a return hearing was scheduled for July 22, 2021.
- At the July 22, 2021 City Council Hearing, the written record was re-opened through July 27, 2021 at 5 PM to allow comment on a motion for a Condition of Approval.
- A continued City Council Hearing was scheduled for July 28, 2021 at 10:15 PM.
- The continued City Council Hearing was held on July 28, 2021 and Council tentatively voted 5:0 to approve the Demolition and Adjustment Review with a condition of approval. The Council continued the matter to August 18, 2021 at 9:45 am time certain for a final vote.
- Council took a final vote to approve the Demolition and Adjustment on August 18, 2021 at 9:45 AM and approved the findings.

## **ANALYSIS**

**Site and Vicinity:** The subject site lies within the Portland New Chinatown/Japantown Historic District, which was listed in the National Register of Historic Places on November 21, 1989. The district documentation was prepared by John Southgate on behalf of the Portland Development Commission. The nomination was vetted by the State Historic Preservation Office, reviewed, and forwarded by the governor-appointed State Advisory Committee on Historic Preservation, and accepted by the Keeper of the National Register. The New

Chinatown/Japantown National Register District was also independently designated by the Portland City Council as a City Historic District on April 10, 1996 (ordinance #169987).

The National Register defines a Historic District as “a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. In addition, historic districts consist of contributing and non-contributing properties. Historic districts possess a concentration, linkage or continuity of the other four types of properties. Objects, structures, buildings and sites within a historic district are usually thematically linked by architectural style or designer, date of development, distinctive urban plan, and/or historic associations.”

Located on the west side of the Willamette River, the district lies in an older commercial, industrial, and transportation center, between NW Glisan and W Burnside, streets that connect respectively to the Steel and Burnside Bridges. NW Fourth Avenue forms the spine of the district. The Portland Skidmore-Old Town Historic District (Old Town), listed on the National Register of Historic Places on Dec 6, 1975 and as a National Historic Landmark on May 5, 1977, overlaps the southeastern corner of the district. The shared area is the eastern half of the blocks bounded by Burnside, Third, Davis, and Fourth, plus the southeastern quarter of the block bounded by Davis, Third, Everett, and Fourth.

The New Chinatown/ Japantown Historic District is a ten-block area bounded by W Burnside Street to the south, NW Fifth Avenue to the west, NW Glisan to the north, and NW Third Avenue to the east. The majority of buildings within the district are used commercially or industrially, however, some buildings also contain residential units. At the time of the district’s nomination to the National Register, there were 45 buildings, two features and five vacant properties within the district. There are buildings by notable Portland architects within the district which date from the historic period, 1880-1943. There are 14 buildings dating from the first period of significance (1880-1909), 15 buildings dating from the second period (1910-1943), 9 historic non-contributing buildings, 4 compatible noncontributing buildings, 3 non-compatible non-contributing buildings, and 5 vacant lots. There are two features [not building structures] within the district, the Simon Building facade, dating from the primary period, and the Chinatown Gateway, constructed after the historic period. The district is significant under criterion A for its historical associations and American History, and C for its design and construction. The district’s areas of significance noted in the National Register nomination are Asian Ethnic Heritage, Industry, Commerce and Architecture. It is the only historic district in Portland significant for its association with ethnic history.

According to the National Register nomination “The Chinatown Historic District is nationally significant under Criterion A for its history as the largest and most intact Chinatown in Oregon. It is locally significant as the largest remaining and most viable example of the Chinese ethnic community in Portland. As the City of Portland developed into a major seaport and railroad center, the use of this area changed from residential to commercial and industrial. Chinatown was the major Chinese immigration center in the state and represents the Chinese who lived and worked in the area. The Chinatown Historic District portrays the traditional nature of Chinese social, political, cultural, and economic organizations. The majority of the buildings in the district were designed and built by some of Portland’s best architects and builders of the period 1880-1943. The last date marks the year that Chinese were allowed to become naturalized citizens and granted the right to vote and legally own land in the United States.”

Located at the northern gateway to the district, the three-story Blanchet House was originally built as a hotel (c. 1905) and known as the Yamaguchi Hotel. It has Asian American significance, as well as being designated contributing for architecture in the National Register Nomination. Specifically, from the National Register Nomination:

**Description:** *The building faces north on NW Glisan Street and west on NW Fourth Avenue. It is a square, three story, brick building with a flat roof with a castellated parapet. The brick on the upper two stories has been covered with stucco. Segmental arched one over one and six over six double hung wood sash windows with stone sills punctuate the upper two floors. A horizontal brick belt course separates the first and second stories. On the north elevation four pilasters divide the first story storefronts into three bays. Each storefront consists of large transom windows, fixed pane windows and a wooden bulkhead. The main entrance is located on the northwest corner of the building. An arched entrance door is also located on the west elevation. A wrought iron fire escape, added in 1949, is on the north side of the west facade and extends vertically from the second to the third floors. The building has a brick foundation and is in good condition.*

**Significance:** *Original permits, plans, and title records have not been found for this building. It was built about 1905 as a hotel with ground floor businesses. The 1908 Sanborn map shows the building as containing a saloon and a store on the first floor. Mr. S. Yamaguchi managed the hotel, which was commonly referred to as the Yamaguchi Hotel until 1931 when it was sold and became the Hotel New Meyer. Yamaguchi's wife worked as a mid-wife in the Asian community. The Hotel New Meyer (1932-1944) occupied the upper floors of the building while the ground floor housed the Old Ship Zion Seamen's Mission (1934-1940), subsequently followed by the Lighthouse Mission in 1943.*

*In 1933, Alice Palmer bought and sold the building to William Hause. Hause controlled the property until 1939 when it was purchased by Harold Wolf who sold it 5 years later in 1944 to the Keystone Hotel and Investment Company.*

*The building is considered to be contributing in the district because of its association with the Asian Ethnic community during the primary and secondary periods of significance. Although no alteration permits have been found for exterior changes, including stuccoing, the building retains its basic integrity from the primary period of significance.*

**Zoning:** Central Commercial zone. The Central Commercial (CX) zone is intended to provide for commercial and mixed-use development within Portland's most urban and intense areas, specifically, the Central City and the Gateway Regional Center. A broad range of uses are allowed to reflect Portland's role as a commercial, cultural, residential, and governmental center. Development is intended to be very intense with high building coverage, large buildings, and buildings placed close together. Development is intended to be pedestrian-oriented with a strong emphasis on a safe and attractive streetscape. The Design overlay zone is applied to this zone.

Historic Resource Protection Overlay Zone is intended to ensure the conservation and enhancement of the special characteristics of historic resources. This protects certain historic resources in the region and preserves significant parts of the region's heritage. The regulations implement Portland's Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting the education and enjoyment of those living in and visiting the region. The regulations foster pride among the region's citizens in their city and its heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties.

**Land Use History:** City records indicate several applications for the site have been submitted:

- EA 18-223284 PC - Removal of the three-story building currently occupying the parcel at 340 NW Glisan Street based on existing conditions and barriers to reasonable economic use of the site. Potential small-scale replacement structure options to be discussed as well. This is a contributing structure in Historic New Chinatown/Japantown Historic District.

- LU 18-236784 DM – Removal of the three-story building currently occupying the parcel at 340 NW Glisan Street based on existing conditions and barriers to reasonable economic use of the site. Concept for potential small-scale replacement structure/site option included for evaluation. CASE WITHDRAWN.
- EA 19-143543 PC – Pre-Application Conference for Blanchet House Demolition Review.
- EA 19-227692 PC - A Pre-Application Conference to discuss demolition of a three-story building currently occupying the parcel at 340 NW Glisan Street. The building is a contributing structure in the Oldtown/Chinatown Historic District.
- EA 19-242563 DA – Design Advice Request to Demolish the three-story building currently occupying the property, based on the Approval Criteria as stated in zoning code section 33.846.080.C.1 "Denial of a demolition permit would effectively deprive the owner of all reasonable economic use of the site". Contributing Resource. CASE WITHDRAWN.
- LU 20-109426 DM AD – Blanchet House Demolition Review and Adjustment. CASE WITHDRAWN.

**Agency Review:** A “Request for Response” was mailed **May 25, 2021**. The following Bureaus responded with no issues or concerns:

- Bureau of Environmental Services, Exhibit E1.
- Bureau of Transportation Engineering and Development Review, Exhibit E2.
- Water Bureau, Exhibit E3.
- Site Development Review Section of Bureau of Development Services, Exhibit E4.
- Life Safety Review Section of Bureau of Development Services, Exhibit E5.
- Fire Bureau, Exhibit E6.

## ZONING CODE APPROVAL CRITERIA

*The Applicant has requested two reviews in this Land Use application that have two separate approval criteria: 1) Historic Resource Demolition Review, 33.445 & 33.846, and 2) Adjustment Review, 33.805.*

### **(1) HISTORIC RESOURCE DEMOLITION REVIEW [33.445 & 33.846] Chapter 33.445, Historic Resource Protection Overlay Zone, and Chapter 33.846, Historic Reviews**

#### **33.445.330 Demolition of Historic Resources in a Historic District**

Demolition of other historic resources within a Historic District requires demolition review to ensure their historic value is considered. The review period also ensures that there is an opportunity for the community to fully consider alternatives to demolition.

#### **33.846.080 Demolition Review**

**A. Purpose.** Demolition review protects resources that have been individually listed in the National Register of Historic Places and those that have been classified as contributing in the analysis done in support of a Historic District’s creation. It also protects Historic Landmarks and Conservation Landmarks that have taken advantage of an incentive for historic preservation and historic resources that have a preservation agreement. Demolition review recognizes that historic resources are irreplaceable assets that preserve our heritage, beautify the city, enhance civic identity, and promote economic vitality.

**B. Review procedure.** Demolition reviews are processed through a Type IV procedure.

**C. Approval criteria.** Proposals to demolish a historic resource will be approved if the review body finds that one of the following approval criteria is met:

1. Denial of a demolition permit would effectively deprive the owner of all reasonable economic use of the site; *or*
2. Demolition of the resource has been evaluated against and, on balance, has been found supportive of the goals and policies of the Comprehensive Plan, and any relevant area plans. The evaluation may consider factors such as:
  - a. The merits of demolition;
  - b. The merits of development that could replace the demolished resource, either as specifically proposed for the site or as allowed under the existing zoning;
  - c. The effect demolition of the resources would have on the area's desired character;
  - d. The effect that redevelopment on the site would have on the area's desired character;
  - e. The merits of preserving the resource, taking into consideration the purposes described in Subsection A; and
  - f. Any proposed mitigation for the demolition.

**Findings:** The site is designated a contributing resource within a National Register Historic District. Therefore, demolition of the existing building requires Demolition Review approval. The applicable approval criteria of the code are presented in the alternative. An Applicant can demonstrate under Subsection C.1 that denial of the demolition permit would effectively deprive the owner of all reasonable economic use of the site that is the subject of the application. Or, in the alternative, the Applicant can elect to proceed under approval criteria in Subsection C.2 and in that case would be required to demonstrate, among other things, the merits of the demolition, the merits of a replacement proposal, the effect of the demolition and redevelopment on the area's character, the merits of preserving the building and any proposed mitigation for the demolition. The City Council finds that these are two distinct approval options with distinct approval criteria. Under the plain and express language of the code, Subsection C.1 requires a single finding relative to the reasonable economic use of the site and does not require a weighing of the demolition request against the merits of a proposed redevelopment and does not require or express any balancing test measured by the desired character of the area, the merits of preserving the resource or mitigation for the demolition. These latter findings would be required under a Subsection C.2 application but are not required under a Subsection C.1 application.

Under PCC 33.700.070.A, literal readings of the code will be used. The standard for Council's interpretation of these approval criteria is whether the interpretation is "plausible" given the text and context of the code. *Siporen v. City of Medford*, 349 Or 247, 259 (2010). Council finds that a literal reading of the code requires the conclusion that Subsection C.1 is a distinctive alternate approval criterion as compared to Subsection C.2 and an Applicant under Subsection C.1 is not required to address any of the factors listed under C.2. Council also finds that this interpretation is consistent with the well-established rules of code interpretation.

Some of the parties opposed to the application appeared to suggest that Council apply the C.2 factors to the C.1 approval criteria, requested that Council require the Applicant to submit a new redevelopment proposal before approving demolition, or requested mitigation or a balancing of the merits of a redevelopment proposal against the merits of demolition before approving a C.1 demolition approval. As discussed above, Council interprets the code to provide two separate sets of approval criteria and the applicant is entitled to choose which set the application will be reviewed against. Council finds that

applying the C.2 criteria to an application under C.1 is inconsistent with the express language of C.1. C.1 and C.2 are written in the alternative (“Proposals to demolish a historic resources will be approved if the review body finds that one of the following approval criteria is met”) and there is no basis in code to apply both. In rejecting the opponents’ suggestions, Council finds that the standards of C.2 cannot be inserted into the C.1 approval criterion. To do so would be inconsistent with the requirement for literal readings of the code under PCC 33.700.070.A and would render the interpretation of PCC 33.846.080.C.1 implausible.

Some participants also requested that the City require the Applicant to withdraw the application and resubmit the application under the C.2 criteria. The code permits an Applicant to elect to request a demolition review approval under either C.1 or C.2. As discussed above, C.1 and C.2 are separate and alternative approval criteria. Once an application is submitted under C.1, and is deemed complete, the city must make a decision on the application that was submitted. The code does not provide the City Council the authority to require a new application.

Turning now to the interpretation of Subsection C.1 itself, under PCC 33.700.070.D.1, words in the zoning code have their dictionary meaning unless they are listed in Chapter 33.910, Definitions. The Applicant has chosen to address Approval Criterion PCC 33.846.080.C.1: Denial of a demolition permit would effectively deprive the owner of all reasonable economic use of the site. The term “all reasonable economic use” is not defined in the zoning code. Thus, in order to interpret and apply this term Council looks to the dictionary meaning and find the following definitions for these terms:

*All*—“the whole amount.”

*Reasonable*— “not extreme or excessive, being in accordance with reason.”

*Economic use*— “of, relating to, or based on the production, distribution, and consumption of goods and services.” (Merriam-Webster.com.2021. <https://www.merriam-webster.com> (22 June 2021))

The term “site” is defined by the code under PCC 33.910.030 in the following manner:

Site. For land divisions, the site is the lots, lots of record, or tracts proposed to be divided or reconfigured. For all other purposes, the site is an ownership except as follows: • If a proposed development includes more than one ownership, then all the ownerships are included as the site. • If a proposed development includes only a portion of an ownership, and the balance of the ownership is vacant, then the Applicant may choose to define the site as the portion of the ownership that is proposed for development. • If a proposed development includes only a portion of an ownership, and there is other development on the ownership, then the Applicant may choose to define the site as the portion of the ownership that is currently developed plus the portion proposed for development. (Emphasis added).

In turn, “ownership” is defined under PCC 33.910.030 in the following manner:

Ownership. An ownership is one or more contiguous lots that are owned by the same person, partnership, association, or corporation. Ownership also includes lots that are in common ownership but are separated by a shared right-of-way. See Figure 910-9. See also, Lot and Site. (Emphasis added).

The Applicant owns 340 NW Glisan which is the 2,500 square foot property that is the subject of this demolition permit. The Applicant, a non-profit agency, has owned

the building for over 50 years, and has stated the intent to rebuild on the site. The Applicant does not own any other contiguous lots to the property located at 340 NW Glisan. Therefore the “site” under this application is the 2,500 square foot lot located at 340 NW Glisan. None of the other exceptions to “ownership” listed above apply in this case. The proposed demolition does not include property in more than one ownership and the demolition does not include only a portion of a contiguous ownership. PCC 33.910.030.

Viewed together, under these definitions, the Council must determine whether the property owner would be deprived of the whole amount of reasonable (not extreme or excessive) economic use of 340 NW Glisan Street if Council denied the demolition permit. Council finds that the Applicant has provided substantial evidence under these definitions and the narrow facts of this case, that the former Blanchet House at 340 NW Glisan cannot be put to any reasonable economic use as these terms are defined by Title 33 Zoning Code and therefore demolition is warranted under PCC 33.846.080.C.1.

The Applicant provided the evaluation of several consultants who are experts in the field of construction engineering, construction cost estimating, historic renovation and economic redevelopment analysis to evaluate the site.

To assess the current condition of the building, the Applicant requested a forensic building report from KPFF Consulting Engineers. The KPFF Report, attached as Exhibit A1, details the level of repair that would be required to return the building to a habitable and useable condition. In summary, KPFF found that the project would require:

- Repoint all exterior masonry wall and parapet joints and replace all damaged, deteriorated, and missing bricks. Repointing involves the removal of all deteriorated mortar and replacing it with new mortar.
- Apply new 6” reinforced shotcrete shear/bearing wall on inside of each exterior masonry wall. The new walls will function as both the new lateral force resisting system and new supplemental gravity system as required by code. The shotcrete walls will also provide out-of-plane anchorage to the exterior masonry walls. New walls will require new continuous concrete foundation elements at the basement level.
- Anchor all exterior masonry at regular spacing to the new shotcrete walls.
- Add plywood or OSB sheathing to each floor and the roof so that they can act as structural diaphragms. This work will include new wall anchorages and cross ties.
- Provide parapet bracing or cut parapets down so that they do not extend above the new roof diaphragm elevation.
- Replace all saturated, damaged or deteriorated wood members (columns, beams, and joists) in basement and roof structure.
- Install new waterproofing in basement to prevent further moisture damage to the structure.

This expert evaluation resulted from a detailed forensic review of the building and the site. Council finds that the scope and conclusions of the KPFF Report present credible and substantial evidence regarding the poor condition of the building and accurately describe the magnitude of the work that would be required to re-occupy the site and the existing building with a new use.

The Applicant then provided an estimate of the costs of the work identified by KPFF in Exhibit A1. Fortis Construction provided a detailed review and evaluation of the cost of these repairs, as illustrated in Exhibit A.1. Council again finds that the Fortis Report offers substantial and credible evidence of the costs of repair, based on the substance of the report and their similar work on other historic resource projects including:

- a. 1320 Broadway (1948), Pietro Bellushi's The Oregonian Building
- b. The Ballou & Wright Company Building (1922)
- c. Brewery Blocks Building (1908)
- d. Oregon State Capitol House & Senate Wings Renovation (various years)
- e. Oregon Supreme Court (1914)
- f. Blagen Blocks Building (1888)
- g. Yeon Building (1911)

Fortis estimated the cost of repair at \$8.7 million. (See page 4 of Exhibit B1). Johnson Economics then estimated the full development-related soft costs at \$1,960,501 for a total rehabilitation cost of \$10,675,501.

Some opponents testified that in their opinions the KPFF Report overestimated the required repairs, and the Fortis estimate inflated the cost of repair. Council specifically considered and rejects these arguments. The Applicant provided substantial and credible evidence from experts in the field with experience in similar projects. Council does not find any substantial evidence in the record that would undermine the conclusions in the KPFF and Fortis reports. The forensic evaluation of the building and the cost estimate were the result of an on-site comprehensive study of this building. No other like evidence with equal probative value was presented to the Council that would undermine the veracity or the accuracy of the KPFF and Fortis reports.

Council understands the application's opponents to argue that some of them have worked on projects that required lesser improvements or lower renovation costs. Projects such as the Overland Warehouse or KEX Building were cited as examples. However, none of the projects generally cited share the unique circumstances presented here. The projects cited for comparison with 340 NW Glisan had larger floorplates, were located on different sites in different physical circumstances and were in different levels of disrepair. Further, the information provided by the opponents was based on studies of their particular sites and did not include a site-specific evaluation of the 340 NW Glisan site.

Council finds that the inquiry under Subsection C.1 is site specific and requires a finding based on the condition of the subject site for the subject owner. The express terms of the C.1 criteria directly refer to depriving this specific "owner" of all reasonable economic use of this "site." Therefore, Council findings are based on the site specific circumstances and facts presented by the building at 340 NW Glisan and no other site or building. While Council understands that some data relevant to the construction industry can be generalized, the specific condition of this building cannot be so generalized and instead must be based on a site-specific forensic evaluation of the condition of the building proposed for demolition. The condition of this building as documented in the KPFF Report and the City's own Bureau of Development Services is unsafe and indeed dangerous. It has been vacant for 9 years and has been fenced to avoid the falling bricks striking pedestrians below. The KPFF Report calls for a level of needed repair that would in effect require the construction of a building inside the building and the extreme cost of that repair is documented in the Fortis Report.

Council recognizes that in other cases, with a different set of facts, an Applicant may not meet the standard in C.1. However, this is clearly not that case. The comprehensive cost of repair for any re-use on this site is over \$10 million. The site is unique at only 2,500 square feet, with a net development area above grade of only 7,500 square feet or less. Together, the extreme costs of repair together with the limited net useable square footage above grade renders this site unlike any of the physical or economic circumstances presented by the opponents for comparison.

To further evaluate the nature of these renovation expenditures that would be required to put the site back in a reasonable economic use, the Applicant submitted an expert report from Johnson Economics (Exhibit C.1). The purpose of the Johnson Report was to determine if there were any reasonable economic reuse scenarios that could offset the significant costs of renovation.

Council finds that the Johnson Report also provides credible and substantial evidence of the extreme and excessive nature of the costs to renovate this site and return the site to any reasonable economic use.

The Johnson Report finds that because the building is only 7,500 square feet above grade, there is limited gross leasable or useable square footage that can offset costs. The site is zoned CX and would allow a broad range of office and retail uses. At 2,500 square feet each, the three floorplates are likely too small for residential redevelopment. The Johnson Report finds that the projected net operating income at stabilization of a creative office program would be approximately \$165,600. Assuming a low rate of return of 5%, this would support a repair investment of \$3.3 million or only 31% of the estimated cost to renovate the building.

The Report further finds that the return on the cost of renovation would be 1.55% with a cash-on-cash return of .57%, well below any reasonable standard in the industry. For example, to generate a low 5% return on investment, the triple net lease for office and retail space would need to exceed \$78 per square foot. Office space in the Pearl District averages \$34-\$35 per square foot in high value locations. The lease rate on this site would have to be more than double what the highest value Pearl locations are able to achieve. The required lease rate to make any reasonable economic use of the subject site is clearly excessive and not in accordance with reason.

The C.1 approval criteria again expressly states that the applicant is required to measure the reasonable economic use for the "owner" of this "site" and no other owner and no other site. In this case, the owner of 340 NW Glisan is Blanchet House. The owner intends to use the site for its own purposes; that is a continuation of the social services offered by the Blanchet House. Blanchet House is a not-for-profit entity that is supported entirely by private donations. Therefore, the Blanchet House re-use of any portion of the site would not generate any income to offset the extreme costs of rehabilitation. Council finds that the status of the Blanchet House as a not-for-profit, together with the extreme costs of renovation based on the maximum leasable square footage above grade, results in a conclusion that depriving this property owner of a demolition permit would effectively deprive this owner of all reasonable economic use of the site.

Council finds that while the code requires it to consider the "owner" of the site," in this particular case, even if the owner were not a not-for-profit it would be unreasonable to require any owner to renovate the site. As stated above, the evidence in the record shows that the cost of renovation would require any owner to lease the site at more than double what the highest value Pearl locations are able to achieve. Council finds that is not reasonable. Council received testimony from the Japanese American

Museum of Oregon and others requesting that Council impose a condition requiring that “any new use of the site must include a low-income healthcare facility.” Council finds that this condition is not necessary to satisfy the approval criterion and could be construed as an unconstitutional taking.

Council further finds that the Applicant evaluated all reasonable means to offset these extreme costs in an effort to bridge the significant economic gap through either zoning or historic incentives.

Council finds that the zoning code would permit the site to monetize its unused floor area ratio (“FAR”) but only if it completed the required seismic upgrades. PCC 33.510.210.D.1 allows a seismically upgraded historic resource to sell both its unused FAR and an additional 3:1 FAR to any other site in the Central City Plan District if it has been seismically upgraded. The cost of seismic upgrades is extreme in this case and the sale of FAR, if there were a willing buyer, does not, in this case, begin to offset such extreme costs. In this case the unused FAR comprises 15,000 square feet and the additional 3:1 allowance comprises 7,500 square feet for a total of 22,500 square feet. Based on recent FAR sales, the market for all types of FAR averages \$6.50 per square foot for a total sale value of \$146,250. Council finds that these numbers are far too low to change the “no reasonable economic use” analysis above. This conclusion would not change even if there were an increase in the market rate for FAR. However, it should be noted that there was no evidence in the record that refuted or even attempts to undermine the stated market rate for FAR sales in the City.

Some testimony was offered suggesting that the Applicant would be permitted under the code to include the site of the new Blanchet House located at 310 NW Glisan in the subject “site” area located at 340 NW Glisan, and thereby increase the unused FAR for sale. Council finds that such a plan is not allowed by the code. FAR uses “site” as part of its computation. Site is defined as an “ownership” and “ownership” is defined as “one or more contiguous lots that are owned by the same person, partnership, association, or corporation.” PCC 33.910.030. These two properties (340 NW Glisan and 310 NW Glisan) are not contiguous and are separated by the three-quarters of a block owned by Prosper Portland. Therefore, the properties cannot be aggregated for purposes of increasing the unused FAR that could be made for sale. While some parties testified that the Applicant should be forced to enter an agreement with Prosper Portland to aggregate the sites and therefore increase the overall FAR that could be sold to offset costs, Council rejects this argument for two reasons. First, the Subsection C.1 approval criteria cannot be read to require a property owner to enter an agreement with another property owner to redevelop a larger aggregated site or agree on a combined sale of FAR. Again, Council finds that the C.1 approval criteria refer to and reference only the “owner” of the “site” subject to the demolition request. The owner here is limited to the Blanchet House and the site is limited to 340 NW Glisan. To expand the “site” to include adjacent parcels would be to insert words into the approval criteria that have been omitted and is counter to the literal and plain reading of the C.1 criteria in violation of ORS 174.010 and PCC 33.700.070.A.1. Second, even if the site was expanded to include more area, the limited value in the resulting FAR sale is not sufficient to change the costs of rehabilitation from extreme and excessive to reasonable. Thus, Council finds that there is no code basis for expanding the site to include adjacent parcels not owned by the Applicant under Subsection C.1.

The Applicant also submitted evidence from Heritage Consulting that evaluated the historic incentives that could be applied to the site to offset the costs of renovation and help approach any reasonable economic use.

The Heritage Consulting Report is attached to the application (Exhibit A.1) as Exhibit D.1 and concludes:

- The 20% federal income tax credit that could otherwise be employed in this case is of limited utility because the Blanchet House has very limited leasable space at 7,500 square feet. After the administrative and project costs, the impact would be negligible. Syndication of tax credits is subject to the marketplace and at 7,500 square feet, the credits are not likely attractive to potential investors. As a nonprofit corporation with 501(c)(3) status, the Blanchet House cannot utilize the 20% federal tax credit. The nonprofit would have to transfer the property to a for-profit entity to utilize this credit;
- The Oregon Special Assessment Program is of no utility here as the Blanchet House is a non-profit and tax exempt. It does not pay property taxes now and altering the ownership would only increase, not decrease costs; and
- Oregon State Historic Preservation Office Grants are a maximum of \$20,000 and are awarded to resources of statewide significance in a competitive process. Such a grant does not come close to covering an over \$8 million gap.

Based on this evidence and in this unique case, Council finds that none of these incentives, alone or in combination, alter the Johnson Economics finding that there is no reasonable economic use available for the renovation of this 7,500 square foot building. Council considered the contrary arguments from several parties that expressed a different opinion on the value of the tax credits. Council is not persuaded by the contrary arguments. Forcing Blanchet House to transfer out of its non-profit status to achieve the 20% tax credit would in effect subject the Blanchet House to other significant operational difficulties and other expenses that would offset the value of the credit and undermine the essential non-profit operation. For example, as a non-profit that operates entirely on private donations, changing tax structure would significantly jeopardize its primary funding base and threaten its ongoing charitable purpose. For these reasons, Council finds that the Heritage Consulting Report provides substantial and compelling evidence that the historic tax credits that would otherwise be available to offset costs are either not applicable here or are too insignificant to offset the extreme costs of renovation.

Some argued in the record that while the building has been designated an unsafe building by the City, this designation does not equate to dangerous or unusable, rather the building is repairable, and therefore demolition should be denied. The term “repairable” is not contained in the C.1 approval criterion. Council finds that the question is whether denying a demolition permit would effectively deprive the owner of all reasonable economic use of the site. The KPFF Report clearly identifies what would be needed to “repair” the building. However, Council finds that those required repairs would deprive the owner of all reasonable economic use and that is the required analysis and required finding under C.1. Council therefore rejects these arguments.

Based on the above findings, Council finds that denying the demolition permit would deprive this owner all reasonable economic use of this site and therefore orders the demolition permit subject to the Condition of Approval addressed below under the Adjustment findings.

Council understands that this is a case of first impression under this Subsection C.1 approval criteria and therefore takes this opportunity to address other arguments that were raised, all of which effectively requested an interpretation of C.1 that goes beyond the plain text of the code. Council also finds that this Decision is limited to the specific facts presented here and recognizes that each demolition review under C.1 will be adjudicated on the specific facts presented for that case including the nature of the evidence presented, the specific circumstances of the ownership and the resulting economic analysis.

Some argued that the fact that the ownership did not offer the property for sale to more than one entity meant the Applicant did not present substantial evidence in the record to meet the burden of proof under C.1. Council disagrees. Based on the substantial, persuasive evidence described above in these findings, Council finds the Applicant met its burden of proof under C.1. The approval criterion requires the owner to demonstrate that retention of the building will deprive that owner of all reasonable economic use. While an applicant might choose to present evidence of inability to sell a building in some cases, retention of the building does not equate to a requirement that an applicant must sell he building to another owner or present evidence of attempts to do so. One opponent claimed that if someone would pay anything more than \$1 for the property, the property has economic value and the demolition request must be denied. This argument ignores a key component of C.1. Denial of demolition must deprive the owner of any “reasonable” economic use, which is not the same as whether the property has any economic value, otherwise the term “reasonable” is given no meaning.

Further, in this case the record clearly demonstrated that the site was the subject of a Disposition and Development Agreement with the Portland Development Commission (“PDC”) (now known as Prosper Portland). PDC carried an option for many years on the site that would have transferred ownership to PDC for the sum of \$1. PDC owned the adjacent property on the same block and may have aggregated this site into the larger block. It is not known whether PDC had the intention to also seek demolition of the building or was intending to preserve the building by incorporating it structurally and economically into an adjacent development, though the winning proposal of a RFP sponsored by PDC for the vacant portions of Block 25 shows a multi-story building occupying this site as well. Regardless, PDC did not exercise the option and the option expired. While Council received testimony with various theories on why and how PDC has or has not been involved in this demolition review, Council finds that such theories are not supported by any credible evidence and are irrelevant to the Decision. The failed option with PDC is substantial evidence that a sale of the property was not likely and directly counters the argument of some that there may have been a “limitless list of possible buyers.” In fact, there were no offers for the site aside from the expired option to PDC and in the many months this review has been pending there have been no offers to purchase the site, even from the opponents of the application who have argued that the site can be reasonably redeveloped.

Some opponents claimed that Blanchet House did not provide sufficient maintenance of the building and therefore should not be permitted to submit or secure a demolition permit. This argument was summarized by the term “demolition by neglect.” The evidence in the record demonstrates that the Blanchet House maintained and operated this building for nearly 70 years. During that extensive term, Blanchet House maintained the structure for the purposes of providing charitable services to those in need including a kitchen and food hall to feed the hungry. Blanchet House maintained its occupancy in the building during the term of its use. Once Blanchet House vacated the building, it continued to maintain the site through securing the site, taking measures to prevent falling bricks, maintaining property insurance and making significant investments in a forensic evaluation of the building to determine the magnitude of the structural issues, the nature of the required improvements and the cost to complete those improvements.

Only after this significant level of maintenance and care did Blanchet House conclude that the costs of restoration so far exceeded any reasonable economic use, did they turn to this request for demolition. Therefore, Council finds that the record does not support an argument that the Blanchet House demolished this building through neglect. The substantial evidence in the record contradicts any such conclusion including the long term of Blanchet’s occupancy and operation in the building, the extensive costs of continued

maintenance and repair and both the KPFF and Fortis Reports documenting the extensive cost of repair.

Council also finds that the term “demolition by neglect” is not contained in the Subsection C.1 approval criteria and therefore is not a necessary consideration in this case. While we recognize the theory that one should not benefit from intentional neglect of an historic resource, the facts of each case will be unique including such elements as the size of the site, the history of use, the intentions of the owner, and the extent of the required repairs, including the viability of any programs available to offset the costs of the repairs. In this case, Council finds no intention to neglect this building in order to secure a demolition permit.

Opponents also claimed that demolition would threaten a delisting of the District from the National Register. Mainly, the opponents argued that if the listed resources in the District fall below 50%, the District could be delisted. Council finds that this argument has no factual or legal merit. The criterion for delisting is: “the historic district has ceased to meet the criteria for listing in the National Register because the qualities which caused it to be originally listed have been lost or destroyed.” There is no 50% rule expressed in the delisting criteria, and this building demolition does not destroy the overall qualities of the district. In fact, the District as it stands today still includes almost 90% of its original contributing resources. Further, there is no automatic delisting. An Applicant would have to petition the National Park Service to delist and prove that the overall or collective qualities of the District have been destroyed. Lastly, the New Chinatown/Japantown National Register District was also independently designated by the Portland City Council as a City Historic District on April 10, 1996 (ordinance #169987), therefore even if the district was removed from the National Register, it would still be protected and regulated as a city-designated historic district.

Council also rejects the argument that because there must be over 50% property owner approval at the time of district creation to list the district on the National Register of Historic Places, implies that there is a general 50% rule for delisting. There is no support for that assertion in the law or in this record.

Lastly, Council is required to apply only the applicable approval criteria. The arguments related to demolition by neglect, delisting and forced sale are all outside of the adopted C.1 approval criteria that are the subject of and relevant to this land use review process. Thus, Council rejects these arguments.

One participant claimed that the Council is required to interpret PCC 33.846.080.C.1 in a manner consistent with federal court interpretations of the Taking Clause of the 5th Amendment as a result of similar phrasing in the local code and the federal takings cases, but cited no law or case to support such a claim. The Council finds that it is not bound by the ever evolving body of general federal takings case law when interpreting PCC 33.846.080.C.1, a local code provision that applies very specifically to local requests for historic resource demolition. PCC 33.846.080 makes no reference to the federal Takings Clause or related federal case law, and there are no rules of local code interpretation or cases that the Council is aware of that requires the Council’s interpretation of its own code to be informed by regulatory takings cases under federal case law. Council finds that PCC 33.846.080.C.1 is limited to a local code standard under which an Applicant has a burden of proof to demonstrate by substantial evidence that denial of a demolition permit would deprive this property owner on this site of all reasonable economic use of the site. The applicant is not required to also make a finding that to meet Title 33 Zoning Code standard one would also have to demonstrate that a court would also subsequently find that the

substantial evidence meets the general federal takings case law. To do so would be to expand the approval criterion well beyond its plain text.

To support the claim that the Council must apply its local code in this way, the opposition argument notes that the Applicant stated in a footnote that denial of the demolition permit would constitute a regulatory takings. However, the fact that the Applicant raised and preserved a constitutional takings argument fails to support the opposition's claim. In fact, it supports the opposite conclusion. It was necessary to raise and preserve the constitutional takings argument because it is a distinct legal claim unrelated to the Council's conclusion on the criterion for demolition at PCC 33.846.080.C.1. Under ORS 197.763(1) and 197.796(3)(b), the applicant is required to raise constitutional or other issues relating to proposed conditions of approval or findings with sufficient specificity to allow the local government or its designee to respond to the issue and failure to do so precludes an action for damages in circuit court. Furthermore, because the Council has approved the demolition permit under the local code criterion, it need not consider or provide findings on the applicant's takings argument. There is no denial of a demolition permit in this case and therefore there can be no takings claim.

Council finds that its decision must be supported by substantial evidence, defined as evidence that a reasonable person would rely on to reach the same decision. *Younger v. City of Portland*, 305 Or 346, 358-60 (1998). Council finds based on the whole record and the Findings and Decision that the Applicant has carried its burden of proof and demonstrated by substantial evidence that denial of the demolition permit would deprive the owner of this site of all reasonable economic use of the site.

### Conclusion

Section 33.800.060 of the Portland Zoning Code states: "The burden of proof is on the Applicant to show that the approval criteria are met. The burden is not on the City or other parties to show that the criteria have not been met."

Council finds that the Applicant has satisfied its burden of proof under PCC 33.846.080.C.1. The owner of this site has provided substantial evidence in the record, that has not been undermined by any credible or relevant evidence to the contrary, that the costs of renovation are extreme and excessive, and that denial of the demolition permit would effectively deprive this owner of all reasonable economic use of 340 NW Glisan.

This Decision is based on the specific facts presented in this case. Any future applications for demolition review on other sites under Criteria C.1 shall be limited to the specific facts and evidence presented in any future case.

## **(2) ADJUSTMENT REQUEST (33.805)**

### **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**

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

**The following Adjustment is requested:**

**The Applicant seeks an Adjustment from PCC 33.445.330.A.2.c which provides that a demolition permit cannot be issued until a permit for a new building on the site has been issued.**

The full text of the standard is below, underlined text for emphasis:

PCC 33.445.330.A. Demolition review.

1. When demolition review is required. Unless exempted by Subsection B, below, demolition of a historic resource in a Historic District is subject to demolition review if:
  - a. It is a structure that is identified as contributing to the historic significance of a Historic District; or
  - b. There is a covenant with the City that requires the owner to obtain City approval before demolishing or relocating the historic resource.
  
2. Issuance of a demolition permit after demolition review. If the review body for demolition review approves demolition of the resource, a permit for demolition will not be issued until the following are met:
  - a. The decision in the demolition review is final;
  - b. At least 120 days have passed since the date the Director of the Bureau of Development Services determined that the application was complete; and
  - c. A permit for a new building on the site has been issued. The demolition and building permits may be issued simultaneously.

The Applicant requests that Adjustment from PCC 33.445.330.A.2.c to demolish the building prior to seeking a building permit for a replacement building. Council finds that the Adjustment approval criteria are stated in the alternative. Under PCC 33.805.040, an Applicant can seek an Adjustment under approval criteria A-F or, alternatively, G-I.

As a threshold matter, one participant argued that PCC 33.445.330.A.2.c is not eligible for adjustment under PCC 33.805.030.B.4 and B.6. Council does not agree. PCC 33.805.030.B.4 states that adjustments are prohibited if they operate as an exception to a qualifying situation for a regulation, such as zones allowed or items being limited to new development. Subsection B.4 then provides an example: “an example of this is 33.251.030.C, which says that manufactured dwelling parks are allowed in the RM1 zone. An adjustment could not be granted to allow a manufactured dwelling park in any other R zone.” Council finds that this exception under Subsection B.4 does not apply to an adjustment to the timing of a demolition permit issuance. The regulation at issue here is not a qualifying situation such as what is permitted in a zone or what zones are allowed. The regulation at issue here does not imply or express a limitation on a zone or a use limitation such as permitting a manufactured dwelling park in a zone where it is not otherwise permitted under the code. Instead, the regulation here addresses the timing of a demolition permit after a demolition approval has been granted. Council concludes that it is not correct to argue that a timing adjustment on a demolition permit is similar to permitting a use in a zone where it is otherwise prohibited. For these reasons, Council finds that the facts presented by this case do not trigger Subsection B.4 because the regulation at issue cannot be interpreted or characterized as a qualifying situation.

Council reaches the same conclusion under Subsection B.6 which prohibits adjustments to the procedural steps of a procedure or to change assigned procedures. The literal and plain

meaning of this exception is limited to the procedural steps of a procedure or a change to assigned procedures. As described in PCC 33.800.030, Procedures and Review Bodies for Discretionary Reviews:

“Procedures are the type of processing a land use case receives. Discretionary reviews are assigned either to a quasi-judicial or legislative procedure. The type of procedure is stated with the review. A description of the procedures are stated in Chapter 33.730, Quasi-Judicial Procedures, and Chapter 33.740, Legislative Procedure.”

Thus, Council finds the prohibition on adjustments in PCC 33.805.030.B.6 applies to the steps of the procedures and the assigned procedures stated in PCC 33.730, Quasi-Judicial Procedures, and PCC 33.740 Legislative Procedures. For example, if an applicant requested to be excused from the procedural step in 33.730 requiring a pre-application conference for a Type III reviews, such a request could not be granted through an adjustment because the request would qualify as an exception to a procedural step required by the code. Similarly, if an applicant requested an application that otherwise required a Type III review to be processed as a Type II review, such a request would not be eligible for an adjustment under Subsection B.6. The applicant here did not request an exception to a required procedural step or an assigned procedure under PCC 33.730 or 33.740. In this case, the applicant seeks an adjustment to the timing of issuance of a demolition permit. Council finds that the operative language in PCC 33.445.330.A.2.c relates to when a permit for demolition can issue and not to the steps of a required procedure or an assigned procedure under PCC 33.730 or 33.740. This interpretation is consistent with the literal and plain text of the code as required by PCC 33.700.070.A. To apply the Subsection B.6 exception beyond the procedures in PCC 33.730 and 33.740 would be to interpret the code more strictly than is stated in violation of PCC 33.700.070.A (regulations are no more or less strict than as stated).

Council finds that the Applicant has satisfied approval criteria A-F and G-I, and therefore all the approval criteria are addressed below and under either A-F or G-I, the Applicant has met its burden of proof.

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

**Findings:** The relevant purpose statement is found at PCC 33.445.010 Purpose of Historic Resource Protection Overlay Zone. There is no specific purpose statement for PCC 33.445.330.A.2.c that is subject to this Adjustment request. Therefore, Council finds that the Purpose Statement for the general code section is applied.

*This chapter protects certain historic resources in the region and preserves significant parts of the region's heritage. The regulations implement Portland's Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting the education and enjoyment of those living in and visiting the region. The regulations foster pride among the region's citizens in their city and its heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties. 33.445.010.*

There are two other related purpose statements also addressed here. Because these purpose statements also reference the purpose of historic and demolition review generally, Council finds that the aggregated findings below address each of these three similar purpose statements.

*33.846.010 Purpose [of Historic Resource Review]*

*This chapter provides procedures and establishes the approval criteria for all historic resource reviews. The approval criteria protect the region's historic resources and preserve significant parts of the region's heritage. The reviews recognize and protect the region's historic and architectural resources, ensuring that changes to a designated historic resource preserve historic and architectural values and provide incentives for historic preservation.*

*33.846.080.A Purpose [of Demolition Review]*

*Demolition review protects resources that have been individually listed in the National Register of Historic Places or are identified as contributing to the historic significance of a Historic District. It also protects Historic Landmarks and Conservation Landmarks that have taken advantage of an incentive for historic preservation and historic resources that have a preservation agreement. Demolition review recognizes that historic resources are irreplaceable assets that preserve our heritage, beautify the city, enhance civic identity, and promote economic vitality.*

As a threshold matter, the Adjustment from the timing of the demolition permit equally or better meets the references to procedures in these purpose statements. The Applicant has conformed with the approval criteria for historic reviews and demolition reviews. Council finds that Chapter 33.846 of the Zoning Code identifies the 33.730 process and the approval criteria to seek historic review and demolition review. In this case, the Applicant is seeking demolition review through Subsection C.1 and, as stated above, has satisfied its burden of proof under C.1. The approval criterion is intended to ensure that any request for demolition of an historic resource is thoroughly evaluated in order to protect and preserve historic resources. The thorough and substantial evaluation reflected in these findings under C.1 above demonstrates that the Applicant equally or better meets the various procedural safeguards contained in these purpose statements.

Here the Applicant requests an Adjustment to the timing of the demolition permit issuance and not the merits of the demolition itself. The merits of the demolition are discussed and decided above under PCC 33.846.080.C.1 and are not re-argued here. Instead, the singular issue under this Adjustment approval criteria is whether issuing the demolition permit before any new building permit equally or better meets the purpose of the standard to be adjusted.

Council finds in this case that the purpose of the demolition delay standard is equally or better satisfied by this proposal, along with the purpose statement related to historic review and demolition review. Leaving this failing building in place for further demise does not contribute to the region's heritage or the character of the area. In fact, the building's condition detrimentally impacts the character of the area. The record demonstrates that this building and this site were recognized primarily for its cultural heritage and relationship with the Japanese American population in this area of the City. The building itself does not announce or reflect that history. Council finds, under these specific facts, that the building and the site in its current state does not contribute to the education and enjoyment of those living in and visiting the region. Nor is the building fostering pride among the region's citizens in their city and its heritage. The building is also not beautifying the city, promoting the city's economic health, or preserving and enhancing the value of historic properties.

Instead, demolition of the building will permit a redevelopment that can and will honor the cultural history and historic use of the site. At the June 30, 2021 City Council Hearing, Council heard public testimony from 33 people. Testimony came from owners of the building, the Chinatown-Japantown Historic District Neighborhood Association, preservation professional and architects, former Landmarks Commissioners, current

Landmarks Commissioners, a former Planning Commissioner, the Japanese American Museum of Oregon, and Asian American community members. All expressed a strong desire to preserve the legacy of the Old Blanchet House and its cultural importance.

In these unique circumstances, given the condition of the building and the negative impact on the district of protective fencing around the building, along with a condition requiring involvement of the community and historic preservation experts prior to demolition and in any redevelopment of the site, Council finds that expeditious removal of the building, rather than waiting for approval of a new development, equally or better meets the purposes of protecting historic resources.

Council finds that there are two primary ways this will occur and thereby equally or better meet the purposes of the demolition delay standard.

First, Council has imposed a Condition of Approval that requires a two-step process for recognition of the cultural heritage of the site. The Condition ensures that the cultural and historical elements of the site will be studied and documented prior to demolition. Second, the identified stakeholder committee required by the Condition will recommend meaningful ways in which the cultural history can be incorporated into a redevelopment proposal. The process for that study and recommendation committee will predate and precede the Applicant's submittal of a redevelopment proposal. In this way, the important cultural heritage of the site will be celebrated and reflected in a redevelopment proposal, and issuance of the demolition permit will not detract from that purpose.

Council recognizes that the demolition permit will irretrievably remove the bricks and mortar of the current building. But, Council finds that these changes to a designated contributing resource will, through the Condition of Approval, preserve the important cultural values for which this site was designated and provide incentives, through the Condition of Approval, to study, recommend and integrate meaningful elements of the cultural history of the site into a future redevelopment proposal. In this way, the proposal equally or better meets the purpose statements by "ensuring that changes to a designated historic resource preserve historic and architectural values and provide incentives for historic preservation." PCC 33.846.010.

Council finds that the historic asset in this case is the cultural heritage reflected in the historic uses of this site. Demolition of the building does not remove this history. Instead, Council finds that this cultural heritage can be preserved through the Condition of Approval, in a manner that revives that heritage, beautifies the city, enhances civic identity, and promotes economic vitality equally or better than strict conformance with the standard that would otherwise delay demolition until such time as a new building permit would issue in compliance with PCC 33.846.080.A.

Second, because the site is located in the Historic District, the Applicant will be required to seek historic resource review approval through the City's Landmarks Commission for new development. In that approval process, the Applicant will be required to demonstrate conformance with the Condition of Approval as well as compliance with the City's applicable historic resource review approval criteria.

These two measures will ensure that the cultural history of the site is incorporated into the redevelopment in meaningful ways and that the new building reflects the cultural and historical legacy of the area equally or better than if the demolition permit were required to be issued at the same time as the permit for new development on the site. Council finds that these measures not only equally but better meet the intended purpose of the regulation to be modified in that the new building will celebrate the

region’s heritage, recognize the role historic resources have in promoting the education and enjoyment of those living in and visiting the region, foster renewed pride among the region’s citizens in their city and its heritage and beautify the city, promote the city’s economic health, and help to preserve and enhance the value of historic properties, in a much more effective manner than is presently reflected in the failing building.

*Therefore, with Condition of Approval C, this approval criterion is 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 proposal is in the CX zone. The CX zone describes the character of the area as one of the “most urban and intense areas” and a broad range of uses are allowed to reflect Portland’s role as a commercial, cultural, residential, and governmental center. Development is intended to be very intense with high building coverage, large buildings, and buildings placed close together with a pedestrian emphasis on a safe and attractive streetscape.

The adjacent streets are NW Glisan St. and NW 4th Ave. Those two streets have the following classifications:

Street Name	Traffic	Transit	Bicycle	Pedestrian	Freight
NW Glisan St.	Traffic Access	Major Transit Priority	Local Service	Major City Walkway	Local Service
NW 4 <sup>th</sup> Ave.	Local Service	Local Service	City Bikeway	Major City Walkway	Local Service

The classification most at issue with the subject review is the Pedestrian Classification of Major City Walkway. The Transportation System Plan describes the overall purpose of “Major City Walkway” as follows:

*Major City Walkways are intended to provide safe, convenient, and attractive pedestrian access along major streets and trails with a high level of pedestrian activity supported by current and planned land uses. These include Civic and Neighborhood Corridors, Civic and Neighborhood Main Streets, frequent transit lines, high-demand off-street trails, and streets in areas with a high density of pedestrian-oriented uses.*

Additionally, the site is within a Pedestrian District, which the Transportation System Plan defines as follows:

*Pedestrian Districts are intended to give priority to pedestrian access in areas where high levels of pedestrian activity exist or are planned, including the Central City, Gateway Regional Center, town centers, neighborhood centers, and transit station areas.*

Both of these classifications work together to try to produce a safe and attractive environment for walking; both specifically refer to high levels of pedestrian activity.

Issuance of a demolition permit prior to a new building permit is consistent with this desired character. Removal of the building in the near term and in conformance with the Condition of Approval C, will allow the Applicant to restore the pedestrian emphasis on a safe and attractive streetscape. The site must be secured based on its present failing condition and the threat of falling bricks onto the sidewalk. The location of the fence within the sidewalk corridor greatly impedes pedestrian and ADA access along this frontage. Demolition will remove the threat to pedestrian activity and restore the site to a safe condition at grade, opening the sidewalk to pedestrian and ADA access.

The immediately adjacent site owned by Prosper Portland is currently developed with a surface parking lot. Therefore, restoring this site to a safe, at grade condition will not be inconsistent with the adjacent use. However, both sites will be redeveloped as Prosper Portland is in negotiations with Key Development to redevelop the adjacent property and the owner on this site will commence planning and design for a redevelopment on the subject site. In both cases, the proposals will have to demonstrate compliance with the Zoning Code requirements for Active Ground Floor Uses, Ground Floor Windows, and application of the New Chinatown/ Japantown Design Guidelines for New Construction. Compliance with these adopted and required measures will add to the desired character for the CX Zone, the associated Street Classifications, and the desired character of the area while preserving an integral part of this City's Japanese American heritage.

For all of these reasons, the timing of the demolition permit will be consistent with the character of the area. The enhanced streetscape in the interim will be consistent with the function and classification of the street system and will enhance pedestrian safety while maintaining compatibility with adjacent uses and ensuring that a future development will meet the CX zoning requirements, Central City Plan District requirements, and historic and general design guidelines applicable to the site.

*Therefore, with Condition of Approval C, this approval criterion is met.*

**C. If more than one Adjustment is 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; thus, this criterion does not apply.

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

**Findings:** Council finds that there are no scenic resources on the site. Council also finds that this Adjustment request is not related to the merits of the preservation of an historic resource. Because Council has found that issuance of the demolition permit is justified under PCC 33.846.080.C.1, the current building will be removed. Delaying that removal for a period of time does not preserve the historic resource. The limited question here is whether delay of the demolition permit is required to preserve an historic resource. Council finds to the contrary. Issuance of the demolition permit with the Condition of Approval will equally or better preserve the historic and cultural uses on this site than delaying the demolition permit. Council also finds that any delay is temporal only in this case.

Granting the Adjustment, the Council adopted Condition of Approval C, will allow an active revival and remembrance of the historic and cultural uses on the site and in the New Chinatown/Japantown historic district. In this case, the loss of the building itself does not equate to a loss of the cultural ties to the Portland Japanese-American community. Instead, the Council proposed Condition of Approval, together with the

required historic resource review, will ensure that this site, when redeveloped, will recognize and make more apparent, that cultural tie that has been so gravely disregarded in the past.

The new building will have a role as a part of the historic district in educating city residents and visitors to the events of the past. The New Chinatown/ Japantown Historic District is listed on the National Register both for its architecture and for its association with Asian American Pacific Islander communities in Portland. The new building will respond to this heritage in use and in its architecture through the Condition of Approval and the later Landmarks Commission review.

Council finds that in the unique circumstances presented here, delay of the demolition permit does not preserve an historic resource. Council has determined that the Applicant has satisfied its burden of proof that the denial of a demolition permit would deprive the owner of all reasonable economic use of the site. Given that Council finding, the building will be demolished. Delay of that permit may preserve what little remains of the cultural or historic resource but such a delay is limited in time, and particularly here where there is concern about the integrity of the structure and the danger it poses to the public realm, such a delay is not justified under this approval criteria.

Because the cultural history of the site will be meaningfully celebrated and incorporated into the redevelopment proposal and the site will be subject to historic resource review to conform with the historic design guidelines and Conditions of Approval, Council finds that the Adjustment to the demolition timing will preserve the identified cultural resource in this case.

*Therefore, with Condition of Approval C, this approval criterion is met.*

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

**Findings:** Council finds that if there are any impacts from expediting demolition of the building they are mitigated by the proposed Condition of Approval and the subsequent historic resource review. Council recognizes that there can be negative impacts from delaying demolition which are to further risk the safety of the building and its immediate environment. Council finds that removal of the building is necessary to preserve a safe pedestrian and urban environment near and adjacent to the site as demonstrated by the KPPF Report.

Further, delaying the demolition permit will not enhance or encourage preservation of the resource in this case. Because Council has found that the building may be demolished under PCC 33.846.080.C.1, its removal is inevitable. Again, the question here under this Adjustment is one of timing only.

Council finds that the only impact from this Adjustment proposal is permitting the demolition of the resource before issuance of a new building permit. Council finds that the demolition delay in PCC 33.445.330.A.2(c) mirrors the approval criteria of 33.846.080.C.2. In other words, if the demolition request is based on a comparison of the relative merits of a new development versus preservation of the resource, the code requires that the new development that is the basis of that decision has an issued building permit before the demolition permit can issue. Otherwise, an Applicant could propose a redevelopment under C.2 as a basis for securing a demolition permit and if successful in that review could demolish the historic resource and never build the replacement project. Those facts are not present here in this case. Instead, Council has granted demolition approval based on a finding that denial of the demolition would

deprive the owner of all reasonable economic use of the site. Thus, Council's decision is not based on the merits of a redevelopment. Instead, its decision is based on a largely economic evaluation. As such, Council does not have the same concerns about a redevelopment proposal because such a proposal has no relevance in these findings or decision and is not required under the C.1 approval criteria.

Instead, Council asks under this Subsection (E) Adjustment criteria, whether, based on these facts any impacts from granting the demolition permit before a redevelopment permit are mitigated to the extent practical. Council finds that the Condition of Approval C mitigates any impacts to the extent practical.

The Condition of Approval C that requires a two-step process for recognition of the cultural heritage of the site. The Condition ensures that the cultural and historical elements of the site will be studied and documented prior to demolition. Second, the identified stakeholder committee required by the Condition will recommend meaningful ways in which the cultural history can be incorporated into a redevelopment proposal. The process for that study and recommendation committee will predate and precede the Applicant's submittal of a redevelopment proposal. In this way, the important cultural heritage of the site will be celebrated and reflected in a redevelopment proposal, and issuance of the demolition permit will not detract from that purpose.

Council recognizes that the demolition permit will irretrievably remove the bricks and mortar of the current building. But, Council finds that these changes to a designated contributing resource will, through the Condition of Approval C, preserve the important cultural values for which this site was designated and provide incentives, through the Condition of Approval, to study, recommend and integrate meaningful elements of the cultural history of the site into a future redevelopment proposal. In this way, the proposal equally or better meets the purpose statements by "ensuring that changes to a designated historic resource preserve historic and architectural values and provide incentives for historic preservation." PCC 33.846.010.

Council finds that the historic asset in this case is the cultural heritage reflected in the historic uses of this site. Demolition of the building does not remove this history. Instead, Council finds that this cultural heritage can be preserved through the Condition of Approval, in a manner that revives that heritage, beautifies the city, enhances civic identity, and promotes economic vitality equally or better than strict conformance with the standard that would otherwise delay demolition until such time as a new building permit would issue in compliance with PCC 33.846.080.A.

Given that the demolition must ensue to protect the public and any reasonable economic use of the site, the Condition of Approval is a practical measure that will allow an opportunity for retention and preservation of historic elements of the site for reuse in a redevelopment and will permit time for a study of the history of the use of the site and time for recommendations for celebrating this history in the redevelopment. With this Condition, the cultural history of the site will be preserved, perhaps even more apparently than is reflected in the current failing and vacant building.

The building is over 115 years old and includes in its heritage the tenancy of a Japanese American husband and wife who both ran the hotel and through Ms. Yamaguchi, offered mid wife services to members of the community. For 70 years, the Blanchet House continued this social service to people in the community through food, jobs and housing support.

Council finds that the cultural heritage on this site reflects a history of people of many backgrounds serving people of many backgrounds. Council imposes the Condition of

Approval with the intention that this service use and history will be reflected in some meaningful manner in the redevelopment proposal.

*For these reasons, Council finds that the impacts resulting from the Adjustment are themselves minimal and Condition of Approval C mitigates for these minimal impacts to the extent practical.*

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

**Findings:** The site is not in an environmental zone, so this criterion does not apply.

*Council therefore finds that the Applicant has met its burden of proof under Subsections (A) through (F). Alternatively, Council finds that the Applicant has also satisfied the alternative approval criteria of Subsections (G) through (I).*

**G. Application of the regulation in question would preclude all reasonable economic use of the site; and**

**Findings:** The regulation at issue relates to the timing of the demolition permit. Thus, the question presented under this criterion is whether delaying the demolition permit until a new building permit is issued would preclude all reasonable economic use of the site. Council found above under PCC 33.846.080.C.1 that retention of the building and failure to issue a demolition permit would deprive the owner of all reasonable economic use of the site. That finding is supported by substantial evidence in the record and is incorporated by reference here under this Adjustment approval criteria Subsection (G).

Because Council has concluded that failure to issue the demolition permit would deprive the owner of all reasonable economic use of the site, Council also finds that failure to timely issue that permit will also preclude all reasonable economic use of the site, and incorporates its findings under 33.846.080.C.1 here. This site contains an unsafe and dangerous building. Bricks are falling to the sidewalk, the site has been fenced for many years, and has been vacant for 9 years. The City's Bureau of Development Services has declared the building "dangerous" and its present condition is unsafe. The owner, a non-profit, social service provider that is funded by private donations has been maintaining the building, hiring security guards to keep people from camping in the building and is maintaining insurance on the building in order to mitigate its exposure to liability for the failing structure.

Council finds that there is an important distinction between a finding under C.1 above and a finding under C.2 above. Under C.2, the decision to demolish is based on a comparison of the merits of the replacement proposal against the merits of retaining the historic resource. In that case, Council requires under 33.445.330.A.2, a delay in the demolition permit until such time as the building permit for the new development has issued. Conversely, under C.1 above, the applicant does not conduct a comparison of the relative merits of a replacement project with preservation of the historic resource. Instead, the applicant is required to evaluate whether denial of the demolition permit would effectively deprive the owner of all reasonable economic use. No comparison to a new development is required.

With this relationship in mind between C.1 and C.2, Council finds that in this case delay of a demolition permit for an unsafe and dangerous building that is not based on a replacement proposal would preclude all reasonable economic use of the site and would serve no purpose under the code. This Applicant testified and submitted evidence in the record that they cannot effectively work with other social service agencies and

partners and effectively plan, design and fundraise for a new building until such time as the present building is demolished. Further, the continuing costs of maintenance and liability insurance for a building that is otherwise permitted to be demolished under C.1 drains limited economic resources from a non-profit who otherwise requires those resources to continue to provide services to those in need in this community. No credible or substantial evidence was offered to contradict these conclusions. Under these unique circumstances, delaying demolition not only continues to present a danger to the public but exposes the owner to significant potential economic liability and precludes the owner from pursuing reasonable economic reuse of the site.

Council finds that it would lead to an absurd result if we found on the one hand that the building should be demolished because failure to demolish effectively deprives the owner of all reasonable economic use but decided under this Subsection (G) to require retention of that very same building until we issued a building permit for a redevelopment. Such a decision would effectively continue to drain critical economic resources from this non-profit organization, expose the Applicant to the threat of liability for building failure and preclude the Applicant's pursuit of a reasonable economic reuse of the site.

Council has also imposed a Condition of Approval C, discussed above, that requires a punctuated delay in demolition so that the Applicant can collaborate with interested stakeholders on ways to reflect the site's cultural heritage into a redevelopment proposal. Council finds that this limited delay provides sufficient opportunity to discuss meaningful recognition of the Japanese American history of use on the site as well as a plan to incorporate those elements into a future redevelopment proposal.

*For these reasons, Council finds that with Condition of Approval C, the Applicant has satisfied subsection (G) and delay of the demolition permit would effectively preclude all reasonable economic use of the site.*

#### **H. Granting the Adjustment is the minimum necessary to allow the use of the site; and**

**Findings:** Granting the Adjustment to the timing of the demolition permit is the minimum act necessary to allow timely and safe demolition of the building and a return to any economically viable use. Council imposed a Condition of Approval on the Adjustment request that responds to this approval criteria.

The condition requires a minimum 45-day delay on the demolition permit from the date of the Final Decision. In this 45-day period, the Applicant and stakeholder committee will identify elements of the building that are recommended for retention and could be incorporated into a new development. In no case, does this condition require retention of any of the structure nor can it be interpreted to preclude or restrict demolition. Secondly, and prior to redevelopment, the identified stakeholders will also recommend ways in which the Japanese American history of use on the site can be incorporated into the redevelopment. Together, these elements of the condition ensure a delay on demolition that will permit the study and retention of historical elements of the site and a delay on redevelopment to study recommendations for incorporation of the site's use history in any new project.

Both of these measures will permit timely demolition but do so in a manner that is the minimum necessary to allow use of the site. The site cannot be reused, as detailed above, without demolition. Demolition therefore is the minimum act necessary to allow continued use of the site. However, demolition can also be minimally delayed to ensure

that the identified parties have the time necessary to research the use history of the site and make recommendations on how to reflect that use history in a new development.

*For these reasons, and with Condition of Approval C recited above, Council finds that subsection (H) is satisfied.*

**I. Any impacts resulting from the Adjustment are mitigated to the extent practical.**

**Findings:** This identical approval criterion is addressed above under Subsection (E) and repeated here for ease of reference.

Council finds that if there are any impacts from expediting demolition of the building they are mitigated by the proposed Condition of Approval and the subsequent historic resource review. Council recognizes that there can be negative impacts from delaying demolition which are to further risk the safety of the building and its immediate environment. Council finds that removal of the building is necessary to preserve a safe pedestrian and urban environment near and adjacent to the site as demonstrated by the KPFF Report.

Further, delaying the demolition permit will not enhance or encourage preservation of the resource in this case. Because Council has found that the building must be demolished under PCC 33.846.080.C.1, its removal is inevitable. Again, the question here under this Adjustment is one of timing only.

Council finds that the only impact from this Adjustment proposal is permitting the demolition of the resource before issuance of a new building permit. Council finds that the demolition delay in PCC 33.445.330.A.2(c) mirrors the approval criteria of 33.846.080.C.2. In other words, if the demolition request is based on a comparison of the relative merits of a new development versus preservation of the resource, the code requires that the new development that is the basis of that decision has an issued building permit before the demolition permit can issue. Otherwise, an Applicant could propose a redevelopment under C.2 as a basis for securing a demolition permit and if successful in that review could demolish the historic resource and never build the replacement project. Those facts are not present here in this case. Instead, Council has granted demolition approval based on a finding that denial of the demolition would deprive the owner of all reasonable economic use of the site. Thus, Council's decision is not based on the merits of a redevelopment. Instead, its decision is based on a largely economic evaluation. As such, Council does not have the same concerns about a redevelopment proposal because such a proposal has no relevance in these findings or decision and is not required under the C.1 approval criteria.

Instead, Council asks under this Subsection (E) Adjustment criteria, whether, based on these facts any impacts from granting the demolition permit before a redevelopment permit are mitigated to the extent practical. Council finds that the Condition of Approval mitigates any impacts to the extent practical.

Council has imposed a Condition of Approval that requires a two-step process for recognition of the cultural heritage of the site. The Condition ensures that the cultural and historical elements of the site will be studied and documented prior to demolition. Second, the identified stakeholder committee required by the Condition will recommend meaningful ways in which the cultural history can be incorporated into a redevelopment proposal. The process for that study and recommendation committee will predate and precede the Applicant's submittal of a redevelopment proposal. In this way, the important cultural heritage of the site will be celebrated and reflected in a

redevelopment proposal, and issuance of the demolition permit will not detract from that purpose.

Council recognizes that the demolition permit will irretrievably remove the bricks and mortar of the current building. But, Council finds that these changes to a designated contributing resource will, through the Condition of Approval, preserve the important cultural values for which this site was designated and provide incentives, through the Condition of Approval, to study, recommend and integrate meaningful elements of the cultural history of the site into a future redevelopment proposal. In this way, the proposal equally or better meets the purpose statements by “ensuring that changes to a designated historic resource preserve historic and architectural values and provide incentives for historic preservation.” PCC 33.846.010.

Council finds that the historic asset in this case is the cultural heritage reflected in the historic uses of this site. Demolition of the building does not remove this history. Instead, Council finds that this cultural heritage can be preserved through the Condition of Approval, in a manner that revives that heritage, beautifies the city, enhances civic identity, and promotes economic vitality equally or better than strict conformance with the standard that would otherwise delay demolition until such time as a new building permit would issue in compliance with PCC 33.846.080.A.

Given that that the demolition must ensue to protect the public and any reasonable economic use of the site, the Condition of Approval is a practical measure that will allow an opportunity for retention and preservation of historic elements of the site for reuse in a redevelopment and will permit time for a study of the history of the use of the site and time for recommendations for celebrating this history in the redevelopment. With this Condition, the cultural history of the site will be preserved, perhaps even more apparently than is reflected in the current failing and vacant building.

The building is over 115 years old and includes in its heritage the tenancy of a Japanese American husband and wife who both ran the hotel and through Ms. Yamaguchi, offered mid wife services to members of the community. For 70 years, the Blanchet House continued this social service to people in the community through food, jobs and housing support.

Council finds that the cultural heritage on this site reflects a history of people of many backgrounds serving people of many backgrounds. Council imposes the Condition of Approval with the intention that this service use and history will be reflected in some meaningful manner in the redevelopment proposal.

*For these reasons, Council finds that the impacts resulting from the Adjustment are themselves minimal and Condition of Approval C mitigates for these minimal impacts to the extent practical.*

*Based on these findings and the record before us, Council finds that the Applicant also satisfies Subsection (G) through (I).*

## **CONCLUSIONS**

The purpose of demolition review protects resources that have been individually listed in the National Register of Historic Places or are identified as contributing to the historic significance of a Historic District. Demolition review recognizes that historic resources are irreplaceable assets that preserve our heritage, beautify the city, enhance civic identity, and promote economic vitality.

Council finds that the Applicant has satisfied its burden of proof under PCC 33.800.060. Council finds that there the record contains substantial and credible evidence that the property owner would be deprived of all reasonable economic use of the subject site if we denied the requested demolition permit and has therefore satisfied PCC 33.846.080.C.1. Council finds that Subsection C.1 is a distinct approval criterion from PCC 33.846.080.C.2 and none of the balancing or comparative factors expressed in Subsection C.2 can be inserted into the separate approval criteria of C.1 without violating a plain and literal reading of the code or running afoul of ORS 197.829 and Siporen.

Council considered all the information submitted by the applicant and other participants including the condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and all applicable criteria and comprehensive plan policies.

Council further finds that the Applicant has demonstrated by substantial evidence and credible evidence that an Adjustment to PCC 445.330.A.2.c is justified and the Applicant has satisfied approval criteria PCC 33.805.040 (A)-(F) and (G)-(I) to the timing of a demolition permit under PCC 33.445.330.A.2.c. Council finds that the proposed Condition of Approval C mitigates for any impacts created by the Adjustment and that the Adjustment equally or better meets the demolition delay otherwise required by the code, as detailed in the above findings.

## **CITY COUNCIL DECISION**

**Approval of the Demolition Review** for 340 NW Glisan Street, the Old Blanchet House.

**Approval of the Adjustment Review** to issue the demolition permit prior to building permit approval at 340 NW Glisan Street.

### **Approval per Exhibit C.1 and subject to the following Conditions of Approval:**

- A. As part of the building permit application submittal, the following development-related conditions (B through C) 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 19-145295 DZ". All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. The Demolition Review and Adjustment Review are approved subject to the following conditions:
  1. Prior to issuance of the demolition permit:
    - (a) The property owner will request formation of a stakeholder committee with the following representative members: 1) Executive Director of Japanese-American Museum of Oregon or board member of Japanese-American Museum of Oregon; 2) A representative from the Japanese American community as selected by the Japanese-American Museum of Oregon; 3) a member of the Old Town Community Association as selected by its board; 4) a historian/architect with

knowledge of the District and its history; 5) Executive Director of Blanchet House or a member of the Blanchet House board; and 6) a representative of the Harrington Health Clinic. The property owner will consult with Historic Review Staff at the Bureau of Development Services to invite the historian/architect. If Blanchet House no longer owns the property, representative members 5 through 6 will be selected by the property owner.

- (b) The property owner shall invite participation in the stakeholder committee in writing to each member identified above by certified mail. The written invitation shall include a request for an initial meeting within 30 days of the final effective date of this Decision and the stakeholder committee shall hold a meeting within 45 days of the final effective date of this Decision. The meeting can be held through remote access. The stakeholder committee can meet more than once for this purpose.
- (c) The stakeholder committee shall document the structure through such methods as documentary, physical or pictorial evidence and advise the property owner on the retention of historical physical elements prior to issuance of the demolition permit. In no case, will this requirement be interpreted to restrict or prohibit demolition of the building.
- (d) The committee shall complete, and the property owner shall share the findings with the Historic Review staff at the Bureau of Development Services, no later than 60 days after the initial meeting date.

- 2. Historic Resource Review will be required for any new development of the site.
- 3. No later than 120 days after the initial stakeholder meeting, the stakeholder committee must review and summarize the known written and oral history of the people who used the site from its construction around 1905 to present, and its relationship to the New Chinatown-Japantown Historic District. The committee shall submit recommendations to the Blanchet House and its partners on feasible and meaningful ways to reflect, revive, and honor that human history in the uses within the new building. Committee recommendations must include meaningful, substantive efforts to convey Japanese cultural heritage. Interpretative signage alone shall not be deemed adequate.
- 4. Blanchet House and any subsequent owner must use reasonable efforts to incorporate these use recommendations into the future redevelopment. In no case, will this requirement be interpreted to restrict or prohibit demolition of the building.

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**APPEAL INFORMATION**

**Appeals to the Land Use Board of Appeals (LUBA)**

This is the City's final decision on this matter. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date of the decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period or this land use review. You may call LUBA at 1 (503) 373-1265 for further information on filing an appeal.

**EXHIBITS**

- A. Applicant's Statement:
    - 1. [Original submittal](#)
  - B. Zoning Map (attached):
  - C. Plans & Drawings:
    - 1. Site Plan/ Photo (attached)
  - D. Notification information:
    - 1. Request for response
    - 2. Posting letter sent to applicant
    - 3. Notice to be posted
    - 4. Applicant's statement certifying posting
    - 5. Mailing list
    - 6. Mailed notice
    - 7. Mailed corrected notice
  - E. Agency Responses:
    - 1. Bureau of Environmental Services
    - 2. Bureau of Transportation Engineering and Development Review
    - 3. Water Bureau
    - 4. Site Development Review Section of Bureau of Development Services
    - 5. Life Safety Review Section of Bureau of Development Services
    - 6. Fire Bureau
  - F. Letters:
    - 1. [Skip Trantow & Toni Parque, testimony in opposition to demolition 6-8-21](#)
    - 2. [Steve Dotterrer, testimony in opposition to demolition 6-11-21](#)
    - 3. [Dean Gisvold, testimony in opposition to demolition 6-13-21](#)
    - 4. [Brooke Best, testimony in opposition to demolition 6-11-21](#)
    - 5. [Peggy Moretti, testimony in opposition to demolition 6-14-21](#)
    - 6. [Brian Emerick, testimony in opposition to demolition 6-14-21](#)
    - 7. [John R. Czarnecki, testimony in opposition to demolition 6-14-21](#)
    - 8. [Former Portland Historic Landmarks Commissioners Carrie Richter, Harris Matarazzo, Carin Carlson, Brian Emerick, Kirk Ranzetta, and Paul Solimano, testimony in opposition to demolition 6-14-21](#)
    - 8.1 [Findings and Conclusions for the Type 4 Demolition Review of the Kiernan Building](#)
    - 8.2 [Written testimony submitted in advance of the Feb. 3, 2010 City Council Hearing](#)
    - 8.3 [Audio Recording of the Feb 3, 2010 City Council Hearing \[Part 1\]](#)
    - 8.4 [Audio Recording of the Feb 3, 2010 City Council Hearing \[Part 2\]](#)
    - 9. [Dr. Jacqueline Peterson-Loomis, testimony in opposition to demolition 6-14-21](#)
- Received after the Historic Landmarks Commission 6/14/21 Public Meeting*
- 10. Jennifer Fang Testimony in opposition 6-15-21
  - 11. [Alice Duff Testimony in opposition 6-24-21](#)
  - 12. [Karen Van Hoy Testimony in opposition 6-24-21](#)
  - 13. [Rich Iwasaki Testimony in opposition 6-24-21](#)
  - 14. [Charles Jenkins Testimony in opposition 6-24-21](#)
  - 15. [Emily Ranzel Testimony in opposition 6-24-21](#)
  - 16. [Mark Sirois Testimony in opposition 6-24-21](#)
  - 17. [Marleen Wallingford Testimony in opposition 6-24-21](#)
  - 18. [Joni Kimoto Testimony in opposition 6-24-21](#)
  - 19. [Rachel Browning Testimony in opposition 6-25-21](#)
  - 20. [Cannon-Miller Testimony in opposition 6-25-21](#)
  - 21. [Katherine Quilan Testimony in opposition 6-25-21](#)
  - 22. [Carrie Richter Testimony in opposition 6-25-21](#)
  - 23. [Teresa Testimony in opposition 6-25-21](#)
  - 24. [Brooke Best Testimony in opposition 6-25-21](#)
  - 25. [Francoise Lemieux Testimony in opposition 6-25-21](#)

26. [Chisao Hata Testimony in opposition 6-25-21](#)
27. [Stephanie Fong Testimony in opposition 6-25-21](#)
28. [Marianne Kandel Testimony in opposition 6-27-21](#)
29. [Christe White Testimony in support 6-28-21](#)
30. [Job Gustafson Testimony in support 6-28-21](#)
31. [Landmarks Commission Testimony in opposition 6-28-21](#)
32. [Terry Sarah Chung Testimony in opposition 6-28-21](#)
33. [Linda Tamura Testimony in opposition 6-28-21](#)
34. [Connie Masuoka Testimony in opposition 6-28-21](#)
35. [Wenda Tai Testimony in opposition 6-28-21](#)
36. [Eric Ballinger Testimony in opposition 6-28-21](#)
37. [Steve Feltz Testimony in support 6-29-21](#)
38. [Scott Kerman Testimony in support 6-29-21](#)
39. [Janie Gullickson Testimony in support 6-29-21](#)
40. [Jolene Mae Testimony in opposition 6-29-21](#)
41. [Matthew Cohen Testimony in opposition 6-29-21](#)
42. [Chester Liebs Testimony in opposition 6-29-21](#)
43. [Jillian Toda-Currie Testimony in opposition 6-29-21](#)
44. [Carrie Richter Testimony in opposition 6-30-21](#)
45. [Restore Oregon Testimony in opposition 6-30-21](#)
46. [Jenny Yamada Testimony in opposition 6-30-21](#)
47. [Brian Emerick Testimony in opposition 6-30-21](#)
48. [Roberta Wong Testimony in opposition 6-30-21](#)
49. [JoZell Johnson Testimony in opposition 6-30-21](#)

G. Other:

1. [Original LUR Application](#)
2. [Chinatown-NRHP 9-1-1989](#)
3. [Land Use 09-171259 DM – Landmarks Commission comments to City Council 1-22-2010](#)
4. [Kiernan Bldg-CC-FINAL COUNCIL-Findings 3-3-2010](#)
5. [Old-Town-Chinatown-Five-Year-Action-Plan 7-2014](#)
6. [Chinatown-Japantown Design Guidelines 10-2017](#)
7. [EA 18 223284 PC Pre-Application Planner Response 9-11-2018](#)
8. [Old Town Chinatown Action-Plan-Update-2019](#)
9. [Block25 Key Development 6-28-2019](#)
10. [EA 19 227692 PC Pre-Application Planner Response 11-5-2019](#)
11. [Historic Landmarks Commission State of the City 2020](#)
12. [Draft Staff Report and Recommendation to City Council 6-4-21](#)
13. [Staff Memo to Historic Landmarks Commission 6-7-21](#)
14. [Staff PPT Presentation to Historic Landmarks Commission 6-14-21](#)
15. [Historic Landmarks Commission Public Meeting Testifier Sheet 6-14-21](#)
16. [Historic Landmarks Commission Public Meeting Audio/ Video](#)
17. [Staff Report and Recommendation to City Council 6-16-21](#)

H. City Council Hearings

1. [6-30-21 Staff PPT Presentation](#)
2. [6-30-21 Testimony](#)
3. 6-30-21 City Council Hearing: [\(37\) City Council 2021-06-30 PM Session - YouTube](#)
4. [6-30-21 Jennifer Fang Testimony PPT Presentation](#)
5. 7-22-21 City Council Hearing: <https://youtu.be/vzvIVQZWJsQ>  
*New Evidence provided by 7-27-21 @ 5pm*
6. 7-27-21 Preservation Coalition Letter on revisions to condition
7. 7-27-21 Japanese American Coalition Letter on revisions to condition
8. 7-27-21 Christe White Letter on revisions to condition  
*Record Closed*
9. 7-28-21 City Council Hearing