



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

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**FINAL FINDINGS AND DECISION BY THE DESIGN COMMISSION RENDERED ON December 2, 2021**

**CASE FILE NUMBER: LU 21-012886 DZM GW**  
**PC # 20-121512**  
***Site Upgrades***

**BUREAU OF DEVELOPMENT SERVICES STAFF:** Hannah Bryant 503-865-6520 / [Hannah.Bryant@portlandoregon.gov](mailto:Hannah.Bryant@portlandoregon.gov)

The Design Commission has **approved** a proposal in your neighborhood. This document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

**GENERAL INFORMATION**

**Owner/Applicant:** Kyle Davis | Oregon Public Broadcasting Foundation (OPB)  
7140 South Macadam Ave  
Portland, OR 97219  
[kdavis@opb.org](mailto:kdavis@opb.org)

**Contact Person:** Read Stapleton | Dowl  
720 SW Washington Street, Suite 750  
Portland, OR 97205

**Site Address:** 7140 S MACADAM AVE

**Legal Description:** BLOCK 4 LOT 2&4, SOUTHERN PORTLAND; TL 200 1.24 ACRES, SECTION 22 1S 1E

**Tax Account No.:** R780200010, R991220380

**State ID No.:** 1S1E22A 00800, 1S1E22AC 00200

**Quarter Section:** 3729 & 3730

**Neighborhood:** South Portland NA., contact Leah Fisher at [leah.fisher@portlandoregon.gov](mailto:leah.fisher@portlandoregon.gov)

**Business District:** South Portland Business Association, contact [info@southportlanddba.com](mailto:info@southportlanddba.com).

**District Coalition:** In care of Office of Community and Civic Life, contact Leah Fisher at [leah.fisher@portlandoregon.gov](mailto:leah.fisher@portlandoregon.gov)

**Plan District:** Macadam

**Other Designations:** None

**Zoning:** CM2 (MU-C)d g – *Commercial Mixed-Use 2 with a Design Overlay and Greenway Overlay*

**Case Type:** DZM GW – *Design Review with Modifications and Greenway Review*  
**Procedure:** Type III, with a public hearing before the Design Commission. The decision of the Design Commission can be appealed to City Council.

**Proposal:**

The applicant requests approval for a Design Review with Modifications and Greenway Review for upgrades to the Oregon Public Broadcasting (OPB) site located at 7140 South Macadam Avenue within tax lots 1S1E22AC-00200 and 1S1E22A-00800. These exterior site upgrades are proposed to comply with an ‘Option 2’ Nonconforming Development Assessment Covenant signed by both OPB and the City of Portland in 2017. Exterior upgrades proposed to the site are limited to those necessary to meet the applicant’s obligations identified in the Covenant, and include the following:

- New landscape plantings across the site to meet interior and perimeter parking lot landscaping requirements, as well as along the site’s South Macadam Avenue frontage.
- New sight-obscuring fencing along the site’s eastern boundary as well as on the north, south, and east side of the existing satellite dish and generator area.
- Removal of four existing parallel parking spaces along the east side of the existing parking structure and replacement with landscape planter beds; and
- New landscape planter strip along the site’s southern boundary adjacent to tax lot 1S1E22AC-00300.
- Stormwater treatment planters to mitigate on-site stormwater runoff.

Design Review is required because the site is located in the design overlay and non-exempt exterior alterations are proposed.

A Type III Design Review process is required to consider removal of a condition of approval from the site’s original 1987 Type III Design Review approval (DZ 15-87) that required an approximately 3-foot landscape strip along the site’s eastern edge. Per 33.730.140, “*Requests for changes to conditions of approval are processed using the current procedure assigned to the land use review and the current approval criteria for the original land use review, unless this Title specifies another procedure or set of approval criteria.*”

Modifications are requested to three required development standards:

1. Parking Area Setbacks and Landscaping - 33.266.130.G.2 – to allow a six-foot sight-obscuring fence on the eastern property boundary in lieu of required landscaping meeting the L2 standard.
2. Loading Standards – Placement, Setbacks and Landscaping - 33.266.310.E – to allow a six foot completely sight-obscuring fence in lieu of minimum landscaping requirements on the perimeter of the loading area.
3. Fences – Locations and Heights - 33.130.270.C.1.a – to allow a six foot completely sight-obscuring fence within ten feet of a street lot line in the location of the satellite dish enclosure.

Greenway Review is required because the site is located in the river general overlay and exterior alterations to existing development are proposed.

**Relevant Approval Criteria:**

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

- *Macadam Corridor Design Guidelines*
- *Greenway Design Guidelines*
- *33.825.040, Modifications That Will Better Meet Design Review*

## *Requirements*

### **ANALYSIS**

**Site and Vicinity:** The subject property is comprised of two parcels, both bounded by South Macadam Avenue on the west side, and a rail right-of-way on the east side. The two parcels are divided by South Nevada street, which does not continue to the east of these parcels but ends at the rail right of way. To the east of the rail right-of-way is the 26.85-acre Willamette Park, located between the train tracks and the Willamette River.

The southern 1.24-acre parcel has a low-rise office building and attached two-level structured parking facility. At the eastern edge of this parcel, a surface driveway begins at South Nevada street, wraps behind the building, and around the southern edge of the building to exit onto S. Macadam Avenue.

The northern parcel is approximately .21-acres (9,255 square foot) and has a surface parking area on the western half, and a fenced area housing multiple large radio transmitter satellite dishes and associated equipment on the eastern half of the parcel.

The Macadam area has a significant cultural history that serves to inspire current development and the design guidelines. For centuries Native Americans, primarily the Kalapuya peoples, lived and thrived in this area, using the Willamette River as a transportation corridor. The riverfront area that is now Willamette Park was part of a large network of wetlands and a popular camping location during the salmon runs. Modern development, including buildings located close to the river, removal of native vegetation and use of impermeable building materials has degraded the vital resources and adversely affected Tribal customs traditionally practiced in this area.

Beginning in the mid-1800s, this area was developed by river- and rail-dependent industries. Commercial businesses along the west side of South Macadam supported the industrial uses. As a result, the east side of South Macadam Avenue has large, irregular shaped lots, whereas the west side of South Macadam has a traditional, well-connected block pattern. Following World War II, much of the industry in this area relocated, and the large parcels were redeveloped as campus-like office spaces. This further cemented the disconnect between South Macadam Avenue and the river and resulted in large surface parking lots and an unwelcoming pedestrian environment.

The subject parcel is indicative of these historic development patterns. Numerous parcels owned by Oregon Public Broadcasting (OPB) and its affiliates extend for approximately 1000' between South Macadam Avenue and the TriMet rail right-of-way. To the east of the rail right-of-way is Willamette Park, a 26.85-acre public park with a boat dock, paths, picnic areas, sports facilities, and a dog park. To the southeast of the OPB office building, a small residential neighborhood is accessed from S. Miles Street, located between the commercial and industrial businesses along S. Macadam and the rail right-of-way to the west, and the river to the east. Willamette Park provides a lush buffer to the north, and Butterfly Park Naturescape is a 1.07-acre undeveloped area of Willamette shoreline to the south.

**Zoning:** The Commercial/Mixed Use 2 (CM2) zone is a medium-scale zone intended for sites in a variety of centers, along corridors, and in other mixed-use areas that have frequent transit service. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to four stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, provide a strong relationship between buildings and sidewalks, and complement the scale of surrounding residentially zoned areas.

The Design Overlay Zone [d] promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review. In addition, design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

The Greenway Overlay Zones, designated as “g”, “i”, “n”, “q” or “r” are intended to protect, conserve, enhance, and maintain the natural, scenic, historical, economic, and recreational qualities of lands along Portland's rivers; establish criteria, standards, and procedures for the development of land, change of uses, and the intensification of uses within the greenway; increase public access to and along the Willamette River for the purpose of increasing recreational opportunities, providing emergency vehicle access, assisting in flood protection and control, providing connections to other transportation systems, and helping to create a pleasant, aesthetically pleasing urban environment; implement the City's Willamette Greenway responsibilities as required by ORS 390.310 to 390.368; and implement the water quality performance standards of Metro's Title 3.

- The River General “g” allows for uses and development which are consistent with the base zoning, which allow for public use and enjoyment of the waterfront, and which enhance the river's natural and scenic qualities.

The Macadam Plan District implements the Macadam Corridor Study. The plan district contains a set of regulations designed to preserve and promote the unique character of the Macadam area. In addition to special development standards for the district, the regulations restrict auto-oriented uses and development, limit signs, allow for future light rail, and provide view corridors to the Willamette River.

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

- LU 17-203778 DZM GW – Design Review and Greenway Review approvals for exterior alterations including three new windows and canopies, new ADA ramp and pedestrian stair, five new rooftop HVAC units, landscaping and new garage loading door. Included three Modifications to Pedestrian Standards and Special Street Setback. Following this review, the associated building permit triggered non-conforming upgrades. The applicant chose to sign a covenant (the Option II NCU Covenant), deferring all required upgrades for two years from the date of permit issuance. The covenant requires the applicant to upgrade all the nonconforming elements from the specific list of Development that must be brought into conformance listed in 33.258.070.D. *Staff note: The covenant requires full compliance or an Adjustment for the standards listed. This 2021 review is prompted by the applicant seeking Modifications for standards related to these non-conforming upgrades.*
- LU 13-189448 DZ – Design Review approval for a new generator on a concrete pad, surrounded by stained cedar lap siding screen and chain link fence, and removal of three parking spaces.
- LU 10-126156 DZ – Design Review approval to increase building footprint by 81 square feet to add an internal stair.
- LU 87-004406/87-004405 – Land Use Review approval for a new three-story building. This City-Council approval included numerous conditions of approval, including one for ‘a landscaped strip approximately three feet wide shall be installed along the eastern edge of the site, except where loading accommodations require paving to the property line.’ *Staff note: Because this initial approval was a Type III procedure, and the applicant seeks to remove the landscaping Condition of Approval attached to the original approval, this 2021 review is required to be a Type III review.*

**Agency Review:** A “Notice of proposal in Your Neighborhood” was mailed **September 2, 2021**. The following Bureaus have responded with no issue or concerns:

- Life Safety (exhibit E.1)
- Urban Forestry (exhibit E.2)
- Site Development Section of BDS
- Fire Bureau
- Water Bureau
- Portland Bureau of Transportation
- Bureau of Environmental Services (exhibits E.3 and E.4)

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **September 2, 2021**.

Multiple written responses have been received from a single notified property owner in response to the proposal.

- Mike Dowd – multiple dates beginning February 17, 2021. This neighbor has numerous concerns with existing site conditions including possible zoning violations and non-conforming upgrades. This neighbor is concerned that there may be other existing, non-conforming situations on the site that are not related to non-conforming upgrades, that may need to be investigated and resolved through Code Compliance. Mr. Dowd’s concerns include but are not limited to whether the building footprint complies with the 1988 approval; measurements of existing landscape areas; existing fencing; location of existing paving; trash screening; interior parking lot landscaping; rooftop mechanical, and lighting.

**Staff Response:** *Staff appreciates the specificity of the neighbor’s communication and has worked with the neighbor to better understand their top priorities related to this site, and to clarify what elements may be reviewed as part of this review and what possible zoning violations will require further investigation through BDS’ Code Compliance Division. Staff has worked with the applicant to address most of the neighbor concerns in the proposal and has noted additional elements that must be resolved at permitting in the Development Standards section. All correspondence is exhibited in the F. Exhibits and in TRIM (<https://efiles.portlandoregon.gov/Record/14617105/>).*

## **PROCEDURAL HISTORY**

An application for this proposal was submitted on February 9, 2021. The application was deemed incomplete on March 11, 2021. The applicant requested the application to be deemed complete on August 5, 2021. The first hearing was originally scheduled for September 30, 2021 (within 56 days of being deemed complete) but was postponed to November 4, 2021 at the applicant’s request. At the first hearing on November 4, 2021, Mike Dowd requested that the record be left open, prompting a mandatory 21-day extension before the Design Commission may vote on the proposal.

- During the first (7) seven days of the extension the applicant submitted an updated narrative and updated drawings. The new drawings included a revision to the originally proposed barbed wire atop the fence around the satellite dishes, as requested by the Design Commission. Mr. Dowd submitted six letters.
- During the second (7) seven-days of the extension, Mr. Dowd submitted an additional letter responding to the applicant’s updated submittal.
- Neither party submitted additional information during the third (7) seven-day period.

The Design Commission reconvened on December 2, 2021 with a closed record. Staff presented the limited changes to the previous submittal, and the Commission voted unanimously to approve the Design Review, Greenway Review and Modification Reviews.

## **ZONING CODE APPROVAL CRITERIA**

### **1. DESIGN REVIEW (33.825)**

#### **33.825.010 Purpose**

Design Review ensures:

- That development conserves and enhances the recognized special design values of a site or area.
- The conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district.
- That certain types of infill development will be compatible with the neighborhood and enhance the area; and
- High design quality of public and private projects.

#### **33.825.055 Design Review Approval Criteria**

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

It is important to emphasize that design review goes beyond minimal design standards and is viewed as an opportunity for applicants to propose new and innovative designs. The design guidelines are not intended to be inflexible requirements. Their mission is to aid project designers in understanding the principal expectations of the city concerning urban design.

The review body conducting design review may waive individual guidelines for specific projects should they find that one or more fundamental design guidelines is not applicable to the circumstances of the particular project being reviewed.

#### **Macadam Corridor Design Goals and Guidelines**

The following goals are specific to the Macadam Corridor Design Zone.

- Create and improve connections, both physical and visual, between the river, Greenway Trail, Willamette Park, and the residential community west of Macadam.
- Encourage opportunities for public use and enjoyment of the waterfront.
- Promote a quality of development in this scenic entry corridor to the Downtown that complements Macadam's landscape treatment.
- Require excellence in design for projects within the Corridor, particularly by assuring that new development contributes to the formation of a rich and diverse mixture of uses and styles in scale with each other.
- Add to the scenic qualities of the river and the Greenway Trail.
- Promote compatibility of new development with the river, surrounding uses, and the neighborhood.

*Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.*

#### **Macadam Corridor Design Guidelines**

**1. Visual Connections.** Create public views to the river, Greenway Trail and Willamette Park from Macadam Avenue and other public parks and rights-of-way west of Macadam as well as views from the river and the Greenway to the west.

- Promote physical and visual contact between the river and the area west of Macadam Avenue.

- Orient buildings, which front Macadam Avenue to preserve views of the river, Willamette Park and the Greenway.
- Integrate the east and west sides of Macadam Avenue by creating views of the river which align with streets on the east side of Macadam.
- Take particular advantage of opportunities to create and protect views, which align with Southwest Texas, Florida, Pendleton, Idaho, Nebraska, Dakota and Hamilton Streets.
- Rooftops of buildings should be carefully designed to enhance views.
- Plant on-site trees, which will grow to a sufficient height to soften new development and screen parking areas while selecting species and planting locations, which enhance view corridors to the river.

**2. Physical Connections.** Create a common sense of unity that ties both sides of Macadam together with each other, the river to the east and the residential area to the west. Create public walkways that physically connect the Macadam Avenue right-of-way with Willamette Park, the Greenway Trail and the Willamette River.

- Orient structures and parking areas to facilitate access for pedestrians between adjacent uses.
- Extend street tree planting west of Macadam.
- Reinforce connections for pedestrians between the Willamette River Greenway and Macadam Avenue.
- Provide safe, comfortable places where people can slow, sit and relax. Locate these places adjacent to sidewalks, walkways and the Greenway Trail.
- Provide sidewalks and pathways, through larger developments with landscaping which screens or separates these from parking and motor vehicle maneuvering areas.
- Provide walkways, which link parking areas to district-wide access systems for pedestrians.

**Findings for 1 and 2:** The proposal intends to address required non-conforming upgrades (Section 33.258.070 D.) resulting from a 2017 Design Review (LU 17 -203778 DZM GW AD). The proposed elements include a fence along SW Nevada street, abutting the sidewalk entrance into Willamette Park, and new trees on the east side of the existing parking garage. To achieve required parking lot landscaping requirements, the applicant proposes to remove four mature trees on the east side of the structured parking and to replace them with new landscaping planters to include nine deciduous trees.

The proposed trees will eventually grow tall enough to extend above the two-story parking structure and limit the views toward the river from uphill neighborhoods on the west side of Macadam. They will also serve as a visual cue to pedestrians on S. Macadam Boulevard that, on the other side of the approximately 350' long conjoined office building and parking garage, there is natural space – helping to foster a connection between the busy commercial boulevard and the riverfront park and publicly accessible waterfront. From the riverfront park, the new trees will serve to screen the views into the structured parking facility.

The proposed six-foot tall sight-obscuring fence proposed along the entire 480' length of the eastern property line will further screen the back-of-house functions such as parking access, loading and trash and recycling areas from the riverfront park and public right of ways. However, staff notes that the six-foot fence height does not replace the higher screening effects that the trees required by L2 landscaping would achieve. A neighbor has commented and provided photos demonstrating that the bright lights mounted the east façade are highly visible from nearby properties. Therefore, to mitigate the lack of tree canopy resulting from the Modification request and to minimize lighting impacts in this Pacific Flyway corridor, the applicant is proposing to include a minimum of five deciduous trees at the southern end of this property line and to replace all exterior lights on the east façade with dark sky compliant fixtures. The five trees at

the east property line will be located where the one-way drive aisle is widest, and the trees will not interfere with loading dock access or turning radius for service vehicles existing the property via the south driveway.

*Therefore, this guideline is met.*

**3. The Water's Edge.** Enhance the scenic qualities of the river and sites that abut the riverbank to contribute to an attractive and enjoyable Greenway Trail.

- Identify natural areas of the Willamette riverbank and preserve the natural qualities of these areas.
- Screen parking, loading and vehicular movement areas from the Greenway with rich landscape plantings.
- Locate buildings to protect access to sunlight on the Greenway Trail.

**Findings for 3:** The site does not abut the riverbank. However, the fencing will help obscure the existing OPB building and its associated radio broadcast equipment (satellite dishes and generator) from the pedestrian perspective within Willamette Park and along the Greenway Trail, which will contribute to the overall attractiveness and natural feel of the park and trail area.

*Therefore, this guideline is met.*

**4. The Boulevard.** Coordinate with and enhance Macadam's boulevard treatment and contribute to the attractiveness of this entrance to the city.

- Consider using awnings or other weather protection, street furniture, plazas, sculpture courts or other amenities for pedestrians to reinforce the boulevard design of Macadam.
- Abut pedestrian pathways with buildings or landscaping. Buffer with landscape screens, parking lots and structures, which are not oriented to pedestrians.
- Use landscaping to reinforce the boulevard character of Macadam and to provide visual connections with private property adjacent to Macadam.
- Trees interspersed with low-growing vegetation or grass should visually predominate over impervious surfaces.
- Provide frequent views from Macadam into interior ground level spaces of projects located along the Avenue.

**Findings for 4:** As shown on sheet L3.0 of the plan set, thoughtful and durable landscape plantings are proposed along the perimeter of the parking areas abutting South Macadam Avenue. The layering of shrubs and canopy trees soften the vehicle area and enhance the boulevard's treatment and contribute to the attractiveness of this entrance to the City. The proposed sight-obscuring fencing will also further screen and shield the OPB building and satellite dish and generator area from views from Willamette Park, which serves as an additional pedestrian entrance to the City, and alternative to South Macadam Avenue.

*Therefore, this guideline is met.*

**5. Sub-Area Context.** Enhance a site's character through designs that are compatible with features of their surroundings and contribute to the development of an attractive character in the vicinity of the project site. Pay particular attention to cases where the adjacent use is different from that which a project will house.

- Locate buildings to avoid excessive shadow on public open spaces, especially Willamette Park and the Greenway Trail.
- Isolated or independent buildings and open spaces should provide design solutions of merit, which consciously set a precedent for neighboring future developments.

- Buildings and open spaces should establish complementary relationships in terms of color, texture, scale of architectural elements, and proportions with neighboring developments.
- Provide sensitive transitions between new development and adjacent residential areas.

**Findings for 5:** The applicant proposes numerous elements to improve the site's compatibility with its surroundings and local character. These include perimeter landscape plantings, multiple six-foot sight-obscuring wood fences, and reconfiguration of the existing east driveway.

Landscape Plantings & Fence - As shown on sheet L3.0 of the plan set, extensive landscape plantings are proposed along the perimeter of the parking areas abutting South Macadam Avenue and South Nevada Street. Differing uses to the east (Rail right-of-way, Willamette Park, and single-family residential) are proposed to be buffered from the site by a sight-obscuring six-foot wood fence where landscaping treatments are not possible due to site constraints. The layering of shrubs and canopy trees at the perimeter of the structured parking area, in conjunction with the proposed fence and additional trees at the east and south property lines, will soften the visual impact of the existing vehicle areas and enhance the transition between the existing development and adjacent residential areas and public open space.

To facilitate and enhance the proposed buffering of the site the applicant proposes to increase screening at the southeast corner of the site, which is closest to nearby single-family residential. The existing building and parking structure are located at a slight angle to the east property line, resulting in slightly more space between the building and the east property line at the south end of the site than the north end (see L3.0 – Site and Landscape Plan). This wider area provides space for larger plantings while still functioning as an active driveway and loading area.

At the south/southeastern portion of the site, a row of deciduous trees is proposed along the south property line, and an existing mature cherry tree is located at the corner is proposed to be replaced with an evergreen incense cedar. The applicant's landscape architect notes the cherry tree is approaching the end of its typical lifespan and is in poor condition. A neighbor has suggested that evergreen plant material at this location would better achieve the neighbors' desired year-round visual screening from the lights and activity at this location. Therefore, the applicant proposes to replace the older cherry tree with an evergreen tree that addresses the neighbor's request.

Driveway Reconfiguration - An existing driveway runs the length of the east property line behind the structured parking and office building. The driveway has operated as a one-way southbound, with vehicles accessing it from South Nevada street and, upon leaving the bottom level of the structured parking area and loading docks, turning right to continue around the south side of the building. This has resulted in all traffic driving through the site to the area closest to residential neighbors. The driveway exits onto South Macadam Avenue at a location where vehicles can only turn right.

With this proposal, the applicant intends to remove five existing parallel parking spaces between the northern portion of the driveway and the structured parking. The removed spaces will facilitate the construction of the new planters, to provide perimeter landscape screening and stormwater treatment, if feasible, for the structured parking. The planters are proposed to hold nine trees, as well as evergreen shrubs and groundcover to meet the perimeter landscaping requirements.

The expanded driveway width at the northern portion of the parcel will also facilitate converting the one-way drive to a two-way direction for this portion, which allows all vehicles existing the structured parking to turn left out of the bottom level of parking

and then exit the site via South Nevada. This results in reducing the vehicle traffic passing near the residential neighbors and allows exiting vehicles to leave the site at a location where cars can turn left or right onto South Macadam.

While all personal vehicles will now exit the site via South Nevada, all maintenance and delivery vehicles that utilize the loading area will continue to exit the site near the residential neighbors. To mitigate the ongoing vehicle impacts on the residential neighbors, the applicant proposes that a minimum of 5 trees shall be planted along the east property line behind the OPB building, interior to the proposed wood fence, and the trees shall comply with the native plant requirement of the Willamette Greenway Plan. Trees will be located as appropriate to ensure no conflicts with loading operations and to allow for adequate clearance for vehicles turning around the SE building corner. Bollards or other protective elements may be installed to ensure separation between trees and vehicles.

*Therefore, this guideline is met.*

**8. Future Light Rail Transit.** Preserve the potential for a two-direction, light rail facility within the Macadam Corridor Design Zone as illustrated. Until the LRT facility is constructed, the required setback area may be used for parking and landscaping requirements.

**Findings for 8:** The proposed fence, located at the eastern property line, will not preclude the potential light rail use of the rail right-of-way. It may benefit the current and future rail users by shielding some unsightly back-of-house functions associated with this property's eastern façade.

*Therefore, this guideline is met.*

## **2. GREENWAY REVIEW (33.440)**

### **33.440.300 Purpose**

Greenway Review ensures that all proposed changes to a site are consistent with the Willamette Greenway Plan, the Willamette Greenway design guidelines and, where applicable, the water quality element of Title 3 of Metro's Urban Growth Management Functional Plan. The purpose of greenway review is to ensure that:

- Development will not have a detrimental impact on the use and functioning of the river and abutting lands;
- Development will conserve, enhance and maintain the scenic qualities and natural habitat of lands along the river;
- Development will conserve the water surface of the river by limiting structures and fills riverward of the greenway setback;
- Practicable alternative development options are considered, including outside the River Water Quality zone setback; and
- Mitigation and enhancement activities are considered for development within the River Water Quality zone.

### **33.440.350 Greenway Review Approval Criteria**

The approval criteria for a greenway review have been divided by location or situation. The divisions are not exclusive; a proposal must comply with all of the approval criteria that apply to the site. A greenway review application will be approved if the review body finds that the applicant has shown that all of the approval criteria are met.

### **Willamette Greenway Design Guidelines**

The purpose of the Willamette Greenway design guidelines is to help attain the goal and objectives of the Willamette Greenway Plan, particularly objectives 2, 3, and 4. The design

guidelines address the quality of the environment along the river, and require public and private developments to complement and enhance the riverbank area, particularly with regard to riverbank treatment, landscape enhancement, public access, and the relationship of structures to the Greenway Trail, the siting and design of viewpoints, and the design of view corridors.

*Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.*

**A. Relationship of Structures to the Greenway Setback Area.**

**1. Structure Design.** The Greenway setback area should be complemented and enhanced by designing, detailing, coloring, and siting structures and their entrances to support the pedestrian circulation system, including both the Greenway Trail and access connections.

**2. Structure Alignment.** Where surrounding development follows an established block pattern, alignment with the block pattern should be considered in structure placement. Structure alignment should also take into account potential view corridors from existing public rights-of-way or acknowledged viewpoints. The pedestrian access system should be designed to take advantage of these alignments.

**Findings for A:** The OPB site is not within the Greenway Setback area. The applicant's proposed alterations to the site's landscaping and parking areas do not alter or hinder access to the Greenway trail or its access connections. Alterations to the site's existing buildings are not proposed. *Therefore, this guideline does not apply.*

**B. Public Access**

**1. Public Access.** New developments should integrate public access opportunities to and along the river into the design of the project. This includes the Greenway Trail, formal viewpoints, access connections to the Greenway Trail, and internal site pedestrian circulation.

**2. Separation and Screening.** The pedestrian circulation system, including Greenway Trail, viewpoints, and trail access connections, should be designed to ensure adequate separation and screening from parking, loading, circulation routes, external storage areas, trash dumpsters, exterior vents, mechanical devices, and other similar equipment.

**3. Signage.** Access connections should be clearly marked.

**4. Access to Water's Edge.** Where site topography and conservation and enhancement of natural riverbank and riparian habitat allow, safe pedestrian access to the water's edge is encouraged as part of the project.

**Findings for B:** The applicant's proposed alterations to the site's landscaping and vehicle areas do not alter the public access opportunities to and along the Willamette River, including the Greenway trail, viewpoints, access connections, and internal site pedestrian circulation.

The sole element of the proposal that may impact the public pedestrian circulation system and access to the Greenway trail is the replacement of an existing sight-obscuring fence along S. Nevada with a new sight-obscuring fence in the same location. The existing chain link fence is located at the property line, abutting the South Nevada pedestrian right-of-way, which is also a primary pedestrian entrance into Willamette Park. Detailed descriptions about why the fence is necessary at this location are included below in Section 3, Modifications, of this decision. However, while necessary for public safety, the existing fence at the property line abutting a pedestrian entry into a park does not enhance the pedestrian environment.

The existing chain link fence is topped by a layer of barbed wire. At the first hearing, the applicant's drawings proposed re-installing barbed wire above the new wood fence at this location. The Design Commission had concerns about the hostile appearance of the barbed wire so close to the pedestrian realm. The site manager noted that some form of climb deterrent is necessary to protect the satellite dishes within, which are part of a statewide emergency broadcast network. The Design Commission requested the applicant explore a more discreet form of climb deterrent. The applicant has since replaced the barbed wire with a low-profile spiked metal that sits at the back of the top rail of the fence. Staff has determined that the product will not be visible from the adjacent public realm, as it will sit above eye-level and only extends a few inches above the height of the fence.

To further mitigate the fortress-like effect of a fence located at the property line, the applicant proposes to stagger the fence, pushing it back six feet where internal equipment allows that configuration, and to plant the space between the fence and the sidewalk with a mix of narrow evergreen shrubs and deciduous ornamental grasses. Where the fence cannot be moved further back from the sidewalk, the applicant proposes to work with the Regional Arts and Culture Council (RACC) to mount public art panels onto the fence (see sheet L3.5). Adorning the required fence with items of visual interest will serve to strengthen the pedestrian connection between Macadam Boulevard and the riverfront park and Greenway trail, while also screening the pedestrian circulation system from exterior equipment.

While the applicant has proposed the public art concept, provided renderings of the public art on the fence does not include dimensions or location information, and has not yet determined the medium, timeline or budget for this element. Therefore, staff has included a condition of approval that the property owner shall install permanent signage relevant to the Macadam Greenway context, or work with RACC to develop public art to be mounted or painted on at least 75% of the entire length of the proposed fence where it is parallel to S. Nevada street and within three feet of the sidewalk, and the signage or public art shall cover at least the top four feet of the fence.

*With the condition of approval that within two years of final approval of this land use review the property owner shall either:*

- 1. Install permanent signage relevant to the Macadam Greenway context in proximity to or on the proposed fence where it is parallel to South Nevada street; or*
- 2. Work with the Regional Arts and Culture Council (RACC) to develop public art to be mounted or painted on the portion of the proposed fence where it is parallel to South Nevada Street and within three feet of the adjacent Sidewalk. Flexibility in design and configuration of the public art is encouraged, but the public art should be at least 50 percent of the area of the fence where it is parallel to South Nevada Street and within three feet of the adjacent sidewalk.*

*With the condition of approval for interpretation or public art, this guideline is met.*

## **E. Landscape Treatments.**

- 1. Landscape Treatments.** The landscape treatment should create an environment which recognizes both human and wildlife use. Areas where limited human activity is expected should consider more informal riparian treatments. Areas of intense human use could consider a more formal landscape treatment. The top of bank may be considered a transition between a riparian treatment on the riverbank and a more formal treatment of the upland.

- 2. Grouping of Trees and Shrubs.** In areas of more intense human use, trees and shrubs can be grouped. The grouping of trees and shrubs allows for open areas of human use, and has the secondary value of increasing the value of the vegetation for wildlife.
- 3. Transition.** The landscape treatment should provide an adequate transition between upland and riparian areas, and with the landscape treatments of adjacent properties.

**Findings for E:** Consistent with the required non-conforming upgrades covenant signed on August 23, 2018 (PR 18-140945 NCU), upgrades to the site landscaping are included in this proposal. These requirements are primarily to meet the minimal code standards. Additionally, Modifications are proposed that reduce the area of some landscaping required to meet the code standards. To ensure that the purpose of the required landscaping is achieved the applicant has proposed a landscape plan that meets the intent of the landscaping standards on a constrained site. Consistent with the guideline, the proposed landscape treatments facilitate naturalistic groupings of trees in site areas furthest from human activity, while maintaining a more formal landscape treatment in areas with intense human use.

To ensure that the landscaping facilitates a transition between the abundantly treed riverfront park and the more intense uses along the rail right-of-way and this site's abutting driveway, which is lined with vehicle and service functions, the applicant has proposed to add a minimum of 5 trees along the east property line behind the OPB building, interior to the proposed wood fence. Trees will be located as appropriate to ensure no conflicts with loading operations and to allow for adequate clearance for vehicles turning around the SE building corner. Bollards or other protective elements may be installed to ensure separation between trees and vehicles.

Further, to facilitate a grouping of habitat-providing trees in an area furthest from human activity, the applicant has proposed a large, evergreen tree to be added at the southeast corner of the site. The evergreen tree will replace the existing cherry tree.

*Therefore, this guideline is met.*

#### **F. View Corridors**

- 1. Right-of-Way Protection.** View corridors to the river along public-rights-of-way are to be protected. These rights-of-way should not be vacated.
- 2. View Protection.** Buildings, structures, or other features must be located to avoid blocking view corridors.
- 3. Landscape Enhancement.** Landscape treatments within view corridors should frame and enhance the view of the river.

**Findings for F:** South Nevada Street is a designated view corridor per the Willamette Greenway Public Access Map. The applicant is not requesting vacation of South Nevada Street or other land use actions that would alter the right-of-way's protection as a view corridor. To mitigate the impacts of a six-foot sight-obscuring wall abutting this view corridor, staff has added the condition of approval that within two years of final approval of this land use review the property owner shall develop an interpretation signage program that tells the history of the history of the Macadam Greenway area or shall work with RACC to develop a public art installation at this location. The signage/public art shall be mounted or painted on at least the top four feet of at least 75% of the length of the proposed South Nevada satellite dish screening element, where that fence is within three feet of, and parallel to, the sidewalk. The art or educational signage at this location will serve to enhance the view corridor and pedestrian entrance to the Willamette Park while mitigating the lack of landscape enhancement along the north side of this street.

*With the condition of approval that within two years of final approval of this land use review the property owner shall either:*

- 1. Install permanent signage relevant to the Macadam Greenway context in proximity to or on the proposed fence where it is parallel to South Nevada street; or*
- 2. Work with the Regional Arts and Culture Council (RACC) to develop public art to be mounted or painted on the portion of the proposed fence where it is parallel to South Nevada Street and within three feet of the adjacent Sidewalk. Flexibility in design and configuration of the public art is encouraged, but the public art should be at least 50 percent of the area of the fence where it is parallel to South Nevada Street and within three feet of the adjacent sidewalk,*

*With this condition of approval, this guideline is met.*

### **3. MODIFICATION REQUESTS (33.825)**

#### **33.825.040 Modifications That Will Better Meet Design Review Requirements:**

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the design review process. These modifications are done as part of design review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through design review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

- A. **Better meets design guidelines.** The resulting development will better meet the applicable design guidelines; and
- B. **Purpose of the standard.** On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

#### **Modification #1: Parking Area Setbacks and Perimeter Landscaping, PZC 33.266.130.G.2 – To replace required perimeter landscaping with a six-foot sight-obscuring fence.**

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

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

- Provide pedestrian access that is protected from auto traffic;
- Create an environment that is inviting to pedestrians and transit users, especially on transit streets and in Pedestrian Districts;
- Limit the prominence of vehicle areas along street frontages and create a strong relationship between buildings and the sidewalk;
- Create a sense of enclosure on transit and pedestrian street frontages; and
- Limit the size of paved parking area and the type of paving material allowed in order to limit increases in temperature associated with asphalt and reduce impacts from urban heat islands. The parking area layout standards are intended to promote safe circulation within the parking area, provide for the effective management of stormwater runoff from vehicle areas, and provide for convenient entry and exit of vehicles. The setback and landscaping standards:

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

Standard: 33.266.130.G.2.a.(3) / Table 266-5– Setbacks and perimeter landscaping apply to driveways. Five feet of L2 landscaping is required along the east property line where it abuts a C zone.

Additional standard: In the original 1987 design review for this site (DZ 15-87), a condition of approval was added stating “A landscaped strip approximately three feet wide shall be installed along the eastern edge of the site, except where loading accommodations require paving to the property line.” *As part of this review, the applicant is requesting to remove this Condition of Approval.*

**Modification #2: Loading Area Setbacks and Perimeter Landscaping, PZC 33.266.310.E**

Purpose Statement: These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way.

Standard: 33.266.310.E/Table 266-8, Loading areas must comply with the setback and perimeter landscaping standards stated in Table 266-8. Table 266-8 states that five feet of L2 landscaping is required at the lot line abutting a C zone (the rail right-of-way).

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

**Findings for Criterion A for Modifications 1 and 2:** The modification to remove the 1987 condition of approval requiring approximately three feet of landscaping (DZ 15-87) and to Modify the current zoning code standard that requires five feet of L2 landscaping as a buffer along the eastern driveway/loading area and the abutting property (the rail right-of-way) with a six-foot sight obscuring fence better meets the design guidelines in this back-of-house, utilitarian environment abutting the train right-of-way. This property line is approximately 480’ feet long, with pedestrian right-of-way on the north side and no public access to the south end of the site. While not blocked from public access, the rail right-of-way is not a public corridor and only serves a private tourist trolley that runs on occasional weekends. It is not a form of public transit or operated by a public entity. Therefore, the visual screening benefit of the required L2 landscaping, which consists of low evergreen shrubs or a masonry wall to form a three-foot screen, with sporadic trees and ground cover, is minimal in this setting. The low landscaping will not effectively screen the back of house functions, including loading, structured parking access or a heavily used vehicle area.

The proposal to replace the low landscape screening with a six-foot tall sight-obscuring fence better meets the design guideline 5, Sub-Area Context by providing a screening that serves to buffer the site’s visual impact on nearby residential areas and the public park on the other side of the rail right-of-way. The taller, solid fence in conjunction with a minimum of five trees at the east property line is compatible with the intense commercial uses and vehicle traffic and loading functions on the subject site, and better screens the associated lights, noise, and views of those uses from the quiet, forested riverfront and nearby residential homes.

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

**Findings for Criterion B for Modifications 1 and 2:** In preparation for addressing the required non-conforming upgrades on this site, the owners had the property surveyed. The survey revealed that the property does not extend as far back on the eastern side as previously understood. The original 1987 proposal and design for the building were based on the assumed larger site size. When the new survey revealed that the property line was a few feet closer to the building than previously understood, it became infeasible to provide either the current five-foot code required perimeter landscaping or the three-foot landscape strip required as a condition of approval in the original 1987 approval, while still retaining an operational on-site driveway and loading area. The driveway is two-way at the northern end, where employees use it to access the entrance to the bottom level of the parking structure. South of the entrance to the parking structure, the driveway is one way and serves the three loading doors, as well as the trash and recycling areas.

In a typical, urban site, there are myriad benefits for perimeter vehicle area landscaping. In this unusual context, on a parcel that is approximately two city blocks in length and abuts a rail right-of-way with no adjacent public sidewalks to the rail right-of-way, some of the listed purposes of perimeter landscaping are less applicable. The primary purpose of perimeter landscaping in this context is to improve and soften the appearance of parking areas, and to reduce the visual impact of parking areas from nearby residential zones. While there are no abutting residential zones (or residential uses on properties zoned non-residential), there is a nearby residential neighborhood on the other side of the train tracks and to the southeast of this property. One neighbor, who lives closest to this site, has provided numerous comments during this review, including photographs of the eastern edge of this site showing views into the parking area, trash/recycling and bright nighttime security lighting.

To this end, the screening benefits intended of the required landscaping may be better achieved by a taller sight-obscuring fence, particularly since the parking structure is both well-screened by nine deciduous trees and furthest from the nearby residential properties. The visual impact of the loading area, located at the south end of the site closest to the residential neighbors, will not be well screened by the L2 landscaping, and is better mitigated by the sight-obscuring fence. To further mitigate the off-site impacts of the security lighting on the eastern façade of this building, the applicant has proposed that all exterior lights on the east façade shall be dark sky compliant. To add additional year-round screening at the southeast corner of the site, closest to the residential neighborhood, a large, evergreen tree shall replace the existing cherry tree. To provide the additional screening height that the trees in L2 landscaping would provide, the applicant proposes a minimum of five (5) trees shall be planted along the east property line behind the OPB building, interior to the proposed wood fence. Trees may be located as appropriate to ensure no conflicts with loading operations and to allow for adequate clearance for vehicles turning around the SE building corner. Bollards or other protective elements may be installed to ensure separation between trees and vehicles.

*Therefore, this Modification merits approval.*

**Modification #3: Fences, PZC 33.130.270.C.1.a**

Purpose Statement: The fence regulations promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences near streets are kept low in order to allow visibility into and out of the site and to ensure visibility for motorists. Fences in any required side or rear setback are limited in height so as to not conflict with the purpose for the setback.

Standard: 33.130.270.C.1 - Fences abutting street lot lines and pedestrian connections. Within 10 feet of a street lot line or lot line that abuts a pedestrian connection, fences that meet the following standards are allowed:

- a. Fences that are more than 50 percent sight-obscuring may be up to 3-1/2 feet high.
- b. Fences that are 50 percent or less sight-obscuring may be up to 8 feet high.

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

**Findings for Criterion A for Modification 3:** The modification to increase the height of the proposed fencing along the South Nevada frontage stems from the existing location of the radio broadcast dishes, and the inability for both of the relevant fence code standards to be met with the existing radio broadcast dish configuration. Were the dishes moved to a location where they could be adequately screened with the code-required six-foot fence, and still have that fence be located more than ten feet from the street lot line, a Modification would not be required. However, since the dishes at this location were part of the original 1987 approval for this development; relocating this broadcast equipment would require disrupting the public emergency communication systems, and an existing six-foot sight-obscuring fence in the same configuration as the applicant intends to maintain has existed here without public complaint or conflict since 1988, staff concludes that a Modification to fence standards is warranted rather than requiring the applicant to move the satellite dishes, provided the Modification clearly meets both the approval criterion: that the resulting development will *better* meet the applicable design guidelines; and that on balance, the proposal will be consistent with the purpose of the standard for which the modification is requested.

The fencing at this location is required by PZC 33.274.040.C.8.a.(2), which requires screening around the base of any radio frequency transmission equipment. Multiple screening options are provided in this code chapter to meet this standard, but the existing locations of the equipment and its operational requirements preclude screening the area with L2 landscaping. The trees required in L2 landscaping would impede the clear area required by the transmission equipment. Of the required screening options listed in this code chapter, a fence is the only feasible option at this constrained location. To ensure safety of equipment and of the public, the Radio Frequency Transmission Facility code requires the fence be at least six feet in height and be totally sight-obscuring.

The second fence standard applicable to this area is in the base zone regulations, which states that fully sight-obscuring fences abutting street lot lines are limited to 3 ½ feet (or may be up to 8 feet high if they are 50 percent or less sight-obscuring) within the first ten feet of a street lot line. In this specific location, the abutting street ends at the east edge of this parcel, and only a pedestrian path continues eastward across the rail tracks to Willamette Park. Therefore, a taller, sight-obscuring fence at this location does not hinder visibility for motorists or endanger public safety.

Staff considered an alternative Modification to the standard in 33.274, which requires the fence to be totally sight-obscuring. The Modification could have allowed a six-foot fence that was 50 percent or less sight-obscuring. However, staff concluded that allowing the fence to be 50 percent or less sight-obscuring, to meet the standards in 33.130.270, and the resultant views of large satellite dishes, generators, and other equipment in this area, would detract more from the Greenway environment than a well-designed fence or other sight-obscuring screen.

Staff concluded that the Modification proposal at this location will, on balance, be consistent with the purpose of the standard to be modified. However, to ensure that the fence or solid screen proposed for this location *better* meets the design guidelines, staff has added a condition of approval that within two years of final approval of this land use review the property owner shall install permanent signage relevant to the Macadam Greenway context, or work with

RACC to develop public art to be mounted or painted on at least 75% entire length of the proposed fence where it is parallel to S. Nevada street and within three feet of the sidewalk, and the signage or public art shall cover at least the top four feet of the fence.

South Nevada is both a mapped view corridor and a pedestrian entrance into Willamette Park. Using the required sight-obscuring fence at this frontage to mount art or educational signage, will better meet Macadam Corridor Design Guideline 2 – Physical Connections, by creating a common sense of unity that ties the site to the surrounding context.

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

**Findings for Criterion B for Modification 3:** The purpose of the design standard is to ensure that tall, sight-obscuring fences do not negatively impact the community or block necessary visibility for motorist safety. The proposed six foot completely sight-obscuring fence will not impede visibility into and out of the site for pedestrians or motorists. Vehicle access on South Nevada Street does not continue past the rail right-of-way. Therefore, a completely sight-obscuring fence will not impede vehicle safety when vehicles enter and exit any of the OPB site's three driveways proximate to the proposed fence. Further, the fence screens broadcasting equipment, not an occupiable building that benefits from having visibility into and out of the site.

*With the condition of approval that within two years of final approval of this land use review the property owner shall either:*

- 1. Install permanent signage relevant to the Macadam Greenway context in proximity to or on the proposed fence where it is parallel to South Nevada street; or*
- 2. Work with the Regional Arts and Culture Council (RACC) to develop public art to be mounted or painted on the portion of the proposed fence where it is parallel to South Nevada Street and within three feet of the adjacent Sidewalk. Flexibility in design and configuration of the public art is encouraged, but the public art should be at least 50 percent of the area of the fence where it is parallel to South Nevada Street and within three feet of the adjacent sidewalk.*

*With the condition of approval for interpretation or public art, this guideline is met.*

## **DEVELOPMENT STANDARDS**

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

*Trash and Recycling Screening:* In the scope of this review, additional information was provided indicating that the trash areas were mistakenly categorized as internal (and therefore, not requiring screening) in the August 23, 2018 Non-Conforming Upgrade Covenant. Limited information at that time indicated that the trash and recycling area is located within an enclosed parking area. However, new information indicates that while the trash and recycling are beneath an overhang, the overhang does not have walls beneath it, and therefore they are not screened on all sides and are visible from the South Nevada public right-of-way. While the existing office building to the south of the trash area, and the new sight-obscuring fence to the east may provide sufficient screening to meet the Title 33 standards, permit approval shall necessitate additional screening on the north side of the trash and recycling area to fully screen it from the South Nevada right-of-way.

*Radio Broadcast Dishes:* The 2018 Non-Conforming Upgrade Covenant did not address the satellite dishes on the north parcel. However, the applicant addresses them as ground-mounted mechanical equipment in the submitted materials. Staff has determined that the satellite dishes are Radio Frequency Transmission Facilities, and not ground-mounted mechanical equipment. The required screening for these facilities is governed by PZC 33.274 and is not subject to the screening requirements of 33.130.235. This determination is consistent with other instances in Title 33 in which roof-mounted antennas are differentiated from roof-mounted mechanical equipment.

## CONCLUSIONS

The design review process exists to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The proposal meets the applicable design guidelines and modification criteria and therefore warrants approval.

## DESIGN COMMISSION DECISION

It is the decision of the Design Commission to approve Design Review for:

Approval of Design Review for the following: new landscape plantings, new sight-obscuring wood fencing along the site's eastern boundary as well as on the north, south and east side of the existing satellite dish and generator area, removal of four parking spaces and replacement with landscape planter beds, and a new landscape planter strip along the site's southern boundary, per the approved site plans, Exhibits C.1 through C.3 and C.5 through C.7, subject to the following conditions:

Approval of Modifications for the following:

1. Parking Area Setbacks and Landscaping - 33.266.130.G.2 – to allow a six-foot sight-obscuring fence on the eastern property boundary in lieu of required landscaping meeting the L2 standard.
2. Loading Standards – Placement, Setbacks and Landscaping - 33.266.310.E – to allow a six foot completely sight-obscuring fence in lieu of minimum landscaping requirements on the perimeter of the loading area.
3. Fences – Locations and Heights - 33.130.270.C.1.a – to allow a six foot completely sight-obscuring fence within ten feet of a street lot line in the location of the satellite dish enclosure.

Approval of Greenway Review for the following: new landscape plantings, new sight-obscuring wood fencing along the site's eastern boundary as well as on the north, south and east side of the existing satellite dish and generator area, removal of four parking spaces and replacement with landscape planter beds to serve as stormwater treatment facilities if deemed feasible by BES at permitting, and a new landscape planter strip along the site's southern boundary.

Approval to remove a previous Condition of Approval from case file # 15-87: A landscaped strip approximately 3 feet wide shall be installed along the eastern edge of the site, except where loading accommodations require paving to the property line.

Approvals with the following Conditions of Approval:

- A. As part of the building permit application submittal, the following development-related conditions (B through D) 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 21-012886 DZM GW". 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. Within two years of final approval of this land use review the property owner shall either 1. Install permanent signage relevant to the Macadam Greenway context in proximity to or on the proposed fence where it is parallel to South Nevada street; or, 2. Work with the Regional Arts and Culture Council (RACC) to develop public art to be mounted or painted on the portion of the proposed fence where it is parallel to South Nevada Street and within three feet of the adjacent Sidewalk. Flexibility in design and configuration of the public art is encouraged, but the public art should be at least 50 percent of the area of the fence where it is parallel to South Nevada Street and within three feet of the adjacent sidewalk.
- C. No field changes allowed.

By:   
 Julie Livingston, Design Commission Chair

Application Filed: February 9, 2021  
Decision Filed: December 3, 2021

Decision Rendered: December 2, 2021  
Decision Mailed: December 22 2021

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

**Procedural Information.** The application for this land use review was submitted on February 9, 2021 and was determined to be complete on August 5, 2021.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on February 9, 2021.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant waived the 120-day review period, as stated with Exhibit (Exhibit A.2). **The 120 days expire on: August 5, 2022.**

**Some of the information contained in this report was provided by the applicant.**

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. This report is the final decision of the Design Commission with input from other City and public agencies.

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

specifically required by conditions of approval must be shown on the plans and labeled as such.

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

**Appeal of this decision.** This decision is final unless appealed to City Council, who will hold a public hearing. Appeals must be filed by 4:30 pm on January 5, 2022. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. **Towards promoting social distancing during the COVID-19 pandemic, the completed appeal application form must be e-mailed to [BDSLUSTeamTech@portlandoregon.gov](mailto:BDSLUSTeamTech@portlandoregon.gov) and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application.

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

If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of City Council is final; any further appeal is to the Oregon Land Use Board of Appeals (LUBA).

Upon submission of their application, the applicant for this land use review chose to waive the 120-day time frame in which the City must render a decision. This additional time allows for any appeal of this proposal to be held as an evidentiary hearing, one in which new evidence can be submitted to City Council.

**Who can appeal:** You may appeal the decision only if you have written a letter which was received before the close of the record at the hearing or if you testified at the hearing, or if you are the property owner or applicant. Appeals must be filed within 14 days of the decision. **An appeal fee of \$5,513.00 will be charged.**

Neighborhood associations may qualify for a waiver of the appeal fee. Additional information on how to file and the deadline for filing an appeal will be included with the decision. Assistance in filing the appeal and information on fee waivers are available from the Bureau of Development Services website: <https://www.portlandoregon.gov/bds/article/411635>. Fee waivers for neighborhood associations require a vote of the authorized body of your association. Please see appeal form for additional information.

**Recording the final decision.**

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

- *Unless appealed*, the final decision will be recorded after **January 5, 2022** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

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

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

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

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

Hannah Bryant  
December 15, 2021

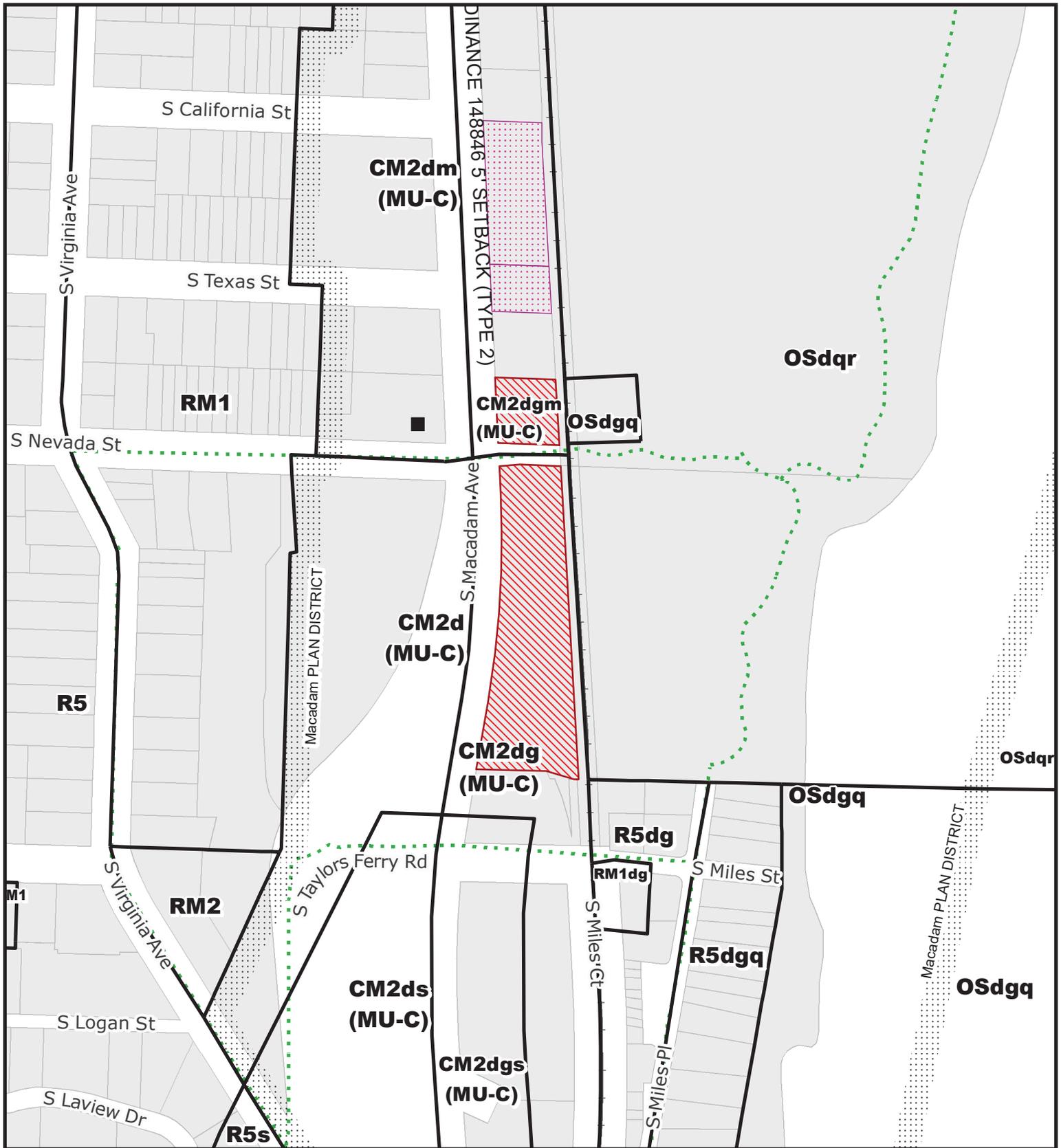
**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**

**EXHIBITS – NOT ATTACHED UNLESS INDICATED**

- A. Applicant's Submittals
  1. Non-Conforming Upgrades Narrative
  2. 120-Day Waiver
  3. Completeness Response Letter
  4. Submittal for First Scheduled Hearing
  5. Original Submittal
- B. Zoning Map (attached)
- C. Plan & Drawings
  1. Site Plan (attached)
  2. Existing Conditions Plan
  3. Construction Management Plan
  4. ~~Site and Landscape Plan~~ (not approved)
  5. Landscape Details
  6. Art Rendering
  7. Revised Site and Landscape Plan
- D. Notification information:
  1. Request for response
  2. Posting letter sent to applicant
  3. Notice to be posted
  4. Revised Notice to be posted
  5. Applicant's statement certifying posting
  6. Mailed notice
  7. Revised notice

8. Mailing list
- E. Agency Responses:
  1. Life Safety
  2. Urban Forestry
  3. Bureau of Environmental Services
  4. Bureau of Environmental Services - Revised
- F. Letters
  1. Mike Dowd, February 17, 2021
  2. Mike Dowd, March 3, 2021
  3. Mike Dowd, March 12, 2021
  4. Mike Dowd, April 4, 2021
  5. Mike Dowd, April 6, 2021
  6. Mike Dowd, April 6, 2021
  7. Mike Dowd, April 20, 2021
  8. Mike Dowd, May 5, 2021
  9. Mike Dowd, September 7, 2021
  10. Mike Dowd, September 7, 2021
  11. Mike Dowd, September 7, 2021
  12. Mike Dowd, September 7, 2021
  13. Mike Dowd, September 11, 2021
  14. Mike Dowd, September 13, 2021
  15. Mike Dowd, September 14, 2021
  16. Images provided by Mike Dowd
- G. Other
  1. Original LUR Application
  2. Incomplete Letter, dated March 11, 2021
  3. 180-Day Notice Letter, dated July 9, 2021
  4. Original Approval, DZ 15-87
  5. OPB 1988 Landscaping Plan
  6. PC & EA Summaries
  7. NCU Option II Covenant
  8. Draft Staff Report created for 9/30 hearing. Never published and hearing re-scheduled.
- H. First Hearing – November 4, 2021
  1. Staff Report for First Hearing, November 2, 2021
  2. Staff Memo to Commission, October
  3. Staff Presentation
  4. Applicant Presentation
  5. Testimony Sign Up Sheet
  6. Mike Dowd, October 4, 2021
  7. Mike Dowd, October 27, 2021
  8. Mike Dowd, November 2, 2021
  9. Mike Dowd, November 3, 2021
  10. Mike Dowd, November 4, 2021
  11. Mike Dowd, November 4, 2021
  12. Mike Dowd, November 12, 2021
  13. Mike Dowd, November 12, 2021
  14. Mike Dowd, November 12, 2021
  15. Mike Dowd, November 12, 2021
  16. Mike Dowd, November 12, 2021
  17. Mike Dowd, November 12, 2021
  18. Mike Dowd, November 15, 2021
  19. Mike Dowd, November 19, 2021
  20. Mike Dowd, November 19, 2021
  21. Kurt Leipszig, November 3, 2021
  22. Staff email to testifiers about the 7-7-7 dates

- 23. Images provided by Mike Dowd
- I. Submittals during the 21-day extension for an open record
  - 1. Updated narrative from applicant submitted during the first 7-day period, November 11, 2021
  - 2. Updated submittal package from applicant submitted during the first 7-day period, November 11, 2021
  - 3. Mike Dowd, written testimony submitted during the first 7-day period, November 12, 2021 (6 letters)
  - 4. Mike Dowd, written testimony submitted during the second 7-day period, November 19, 2021
- J. Second Hearing – December 2, 2021
  - 1. Staff Presentation
  - 2. Revised Staff Report, Dated December 2, 2021



# ZONING



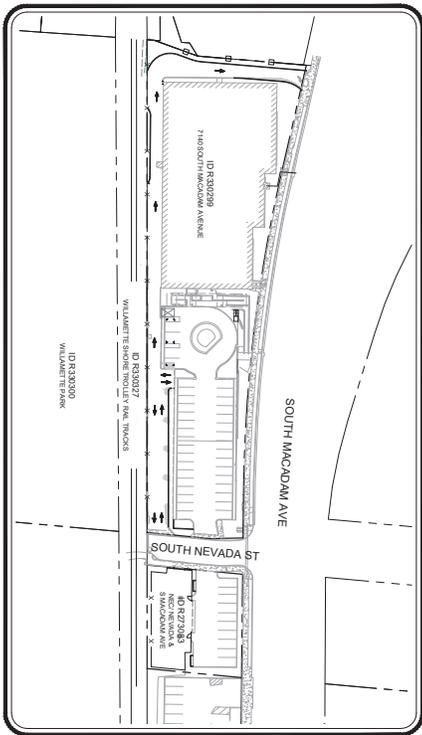
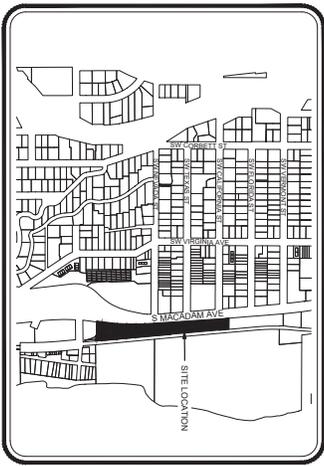
MACADAM PLAN DISTRICT

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

File No.	LU 21 - 012886 DZM GW
1/4 Section	3729,3730
Scale	1 inch = 200 feet
State ID	1S1E22AC 200
Exhibit	B Feb 09, 2021

# OPB - MACADAM AVE NONCONFORMING UPGRADES

PREPARED FOR OREGON PUBLIC BROADCASTING  
7140 SOUTH MACADAM AVENUE  
PORTLAND, OR 97219



- SHEET INDEX**
- L1.0 COVER SHEET
  - L2.0 EXISTING CONDITIONS AND DEMO PLAN
  - L2.5 CONSTRUCTION MANAGEMENT PLAN
  - L3.0 SITE / LANDSCAPE PLAN
  - L3.1 PLANT MATERIALS LEGEND AND DETAILS
  - L3.5 FENCE AND ART MURAL RENDERING

**PROJECT TEAM**

**OWNER**  
OREGON PUBLIC BROADCASTING  
7140 SOUTH MACADAM AVE  
PORTLAND, OR 97219  
PHONE: (503)931-1999

**PLANNER**  
DOWL LLC  
720 SW WASHINGTON STREET, SUITE 750  
PORTLAND, OR 97205  
PHONE: (971)280-8641

**LANDSCAPE ARCHITECT**  
DOWL LLC  
720 SW WASHINGTON STREET, SUITE 750  
PORTLAND, OR 97205  
PHONE: (971)280-8641

LU 21-012866 DZM GW  
C.1

<p><b>DOWL</b> www.dowl.com 720 SW Washington Street, #750 Portland, Oregon 97205 971-280-8641</p>	<p>OPB - MACADAM AVENUE NONCONFORMING UPGRADES PORTLAND, OR <b>COVER SHEET</b></p> <p>LOCATED IN THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 01 SOUTH, RANGE 01 EAST OF THE WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON</p>	<p>FOR REVIEW ONLY</p>	<p style="text-align: right; font-size: small;">REVISIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">REV</th> <th style="width: 10%;">DATE</th> <th style="width: 65%;">DESCRIPTION</th> <th style="width: 20%;">BY</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	REV	DATE	DESCRIPTION	BY																
REV	DATE	DESCRIPTION	BY																				
<p>PROJECT: 1456-01 DATE: 11/09/2021</p>	<p>PROJ: LU 21-012866 DZM GW SHEET: C.1</p>	<p>11.0</p>																					