



# CITY OF TROUTDALE

## Planning Commission

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### MEETING AGENDA

**Wednesday, December 16, 2020 | 7:00 p.m.**

Troutdale Police Community Center – Kellogg Room

234 SW Kendall Ct – Troutdale, OR 97060

1. **Call to Order, Roll Call, & Pledge of Allegiance**
2. **Public Comment on Non-Agenda Items**
3. **Recognition of Commissioner Sandy Glantz**
4. **Review & Approval of Minutes**
  - a. November 18, 2020 Meeting Minutes
5. **Public Hearing**
  - a. Case File # LU-0015-2020 Dunbar Industrial Storage Yard  
*Variance and Site Development Review – Type III Hearing*
  - b. Case File # LU-0017-2020 Aragon Shed  
*Variance – Type III Hearing*
6. **Discussion Items**
  - a. Move Planning Commission Regular Meetings to Mondays
7. **Department Report**
8. **Commissioner Comments**
9. **Adjourn**

*Due to COVID-19 health requirements, there will be a limit on public attendance in the Kellogg Room. Please contact Staff for alternate methods of participation.*

This meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours prior to the meeting to the Planning Division ([planning@troutdaleoregon.gov](mailto:planning@troutdaleoregon.gov) or 503-665-5175)



# CITY OF TROUTDALE

## Planning Commission

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### MEETING MINUTES

**Wednesday, November 18, 2020 | 7:00 p.m.**

Troutdale Police Community Center – Kellogg Room  
234 SW Kendall Ct – Troutdale, OR 97060

#### 1. **Call to Order, Roll Call, & Pledge of Allegiance**

The meeting was called to order by Chair Staffenson at 7 p.m. and the Pledge of Allegiance was said.

- Commissioners Present: Staffenson, Glantz, Mammone, Prickett, Wilcox, Wittren, Woidyla
- Commissioners Excused: None
- City Staff: Chris Damgen, Community Development Director  
Amber Shackelford, Assistant Planner

Members of the Public: Ray Moore  
Tom Orth  
Julie Dawn  
Brendan Irsfeld

Chair Staffenson announced that Ms. Glantz was leaving the Planning Commission to serve on the City Council in January, and they would recognize her in December for her service of over a decade. He commented that she is a class act and it's been an honor to work with her on the Planning Commission. Rich Allen, the Alternate, will take her place when she leaves.

#### 2. **Public Comment on Non-Agenda Items**

Chair Staffenson invited public comment and there was none.

#### 3. **Approval of Minutes**

##### a. Review of October 21, 2020 Minutes

Chair Staffenson asked Mr. Wilcox if he had any corrections to make, and he had none. Chair Staffenson asked if anyone else had any corrections. Ms. Glantz notes a typo on page 3. There were no other corrections.

Ms. Prickett moved to accept the minutes of October 21, 2020 as amended and Ms. Glantz seconded. The minutes were approved unanimously.

#### 4. Public Hearing

##### a. Hearing Procedure

Chair Staffenson began by explaining the procedure that they will follow during tonight's public hearing. He then asked if the commissioners had any ex parte or conflict of interest to declare. No one did.

##### b. Case File # LU-0018-2020 Sandy Rim Subdivision Preliminary Plat – Type III Hearing

Chair Staffenson opened the public hearing for case number LU-018-2020. This is a Type III application and the Planning Commission will be the decision-making body for this application.

##### *Staff Presentation*

Chris Damgen, Director of Community Development for the City of Troutdale, introduced himself and said the application was commonly referred to as the Sandy Rim Subdivision application. He proceeded to show a slide show presentation describing the proposal and Staff's review of the application.

The project is located at the north end of Hall Lane in an undeveloped area. It's a little over an acre in size. It's approached from Stark Street turning near the existing cul-de-sac in the Sandy Dell Acres subdivision accessed via a private road. The land use designation is low density residential (LD). The zoning district is R-7 Single Family Residential which is the zoning district for the neighborhood immediately to the south. The surrounding properties are:

- East – unincorporated, largely vacant
- South – single family, detached residential
- North – vacant, single-family residential
- West - - single-family detached residential

For the record, there is some existing improvements on the property to the west that would need to be removed if development were to occur.

Mr. Damgen showed a screen of the view looking north from the Hall Lane cul-de-sac. The existing gate and sidewalk show there is the potential for existing City development on this property. However, there is no new street being requested here, instead it's the completion of the cul-de-sac and the resulting public improvements. This is now a case where you're adding a street and connecting it to another street. This will remain a cul-de-sac.

Mr. Damgen showed an image proved by the applicants and their surveyors who are also on the call tonight. The area in yellow indicates one of the overlay districts, in this case the vegetation corridor (VECO). The developers are dealing with very significant slope challenges on this property. The elevation is about 220 feet on the southwest

corridor. On the southeast corner, it's 140 feet, and this is all on a property only a little over an acre in size which means the developable area on this property is already gravely constrained.

Since this is an R-7 residential area, someone normally applies for 7000 square feet, but the properties proposed here are closer to 15,000 feet on average, one of them being closer to 16,000 feet. However, when taking into account the overlay of the VECO, the true developable area of this district is quite smaller. Staff has concluded that this project meets the requirements including the 20-foot frontage.

Mr. Damgen illustrated this point by showing a hypothetical sketch of how houses and driveways could be situated, noting that the actual building structures are not being approved at tonight's meeting, only the location of the property lines.

Mr. Damgen asked if there were any questions. Ms. Glantz asked how the two lots to the west would be accessed. Mr. Damgen answered that there's an access easement from a different direction which he will provide later in the meeting.

Continuing, Mr. Damgen returned to what is being requested tonight which is a tentative plat for a four-lot subdivision. The finalization of a subdivision takes place upon public improvements being built. In this case, that would include the cul-de-sac sidewalks and approaches. After that, the applicants can request the final plat approval which is handled by City staff. What is not being requested tonight are: a zoning change; specific residential construction since this occurs after the final plat is requested by the City; and no new streets (apart from closing the loop on the cul-de-sac.)

Mr. Damgen continued to the applicable criteria that Staff reviews in making a recommendation. These are the Troutdale Development Code, the Comprehensive Land Use Plan; the Troutdale Municipal Code; applicable building and fire codes; construction standards for public works facilities; and relevant standards in the ORS and OAR.

He explained tonight's review procedure is a Type III Quasi-judicial procedure, and tonight is the first step of the process, holding a public hearing at a Planning Commission meeting. The Planning Commission is the decision-making entity. If there is an appeal, it will need to be addressed by the City Council and then, if necessary, to the State appeals system. The timeline began with a June 30<sup>th</sup> pre-application meeting; the applicant submitted materials in early October; the application was deemed complete on October 21; the Notice of Application was sent on October 23; and the Public Hearing is tonight, November 18. If approved tonight, the next step will be for the applicant to be able to apply for the subdivision construction permit to begin public improvements and connections to future lots.

Mr. Damgen said that agency comments were provided to: City of Troutdale Planning; City of Troutdale Public Works; Gresham Fire and Emergency Services; Multnomah County Land Use Planning; and TriMet. Staff did not receive written public comments but did receive several phone inquiries and conversations from neighbors. Mr. Damgen summarized agency comments received as all supporting that the subdivision can be approved with conditions of approval.

Turning to a general analysis of this site, Mr. Damgen listed the benefits that staff sees. The application fulfills the basic lot dimensional standards; it does not intend any development within VECO or sensitive areas; the potential house footprints suggest that certain large trees can be saved or worked around; and there are similar size lots to the surrounding neighborhood. The drawbacks of the application are that the driveway angles on the cul-de-sac are tight, but they do meet the minimum standards. There is also potential loss of view for the existing residences to the south (no viewshed easements are recorded.)

Staff is recommending approval with conditions as outlined in the Final Order. These are:

1. Public improvements shall be completed prior to the issuance of building permits
2. The applicants shall be required to satisfy comments made by review entities, included in the attached Finding of Fact, or shall work with Staff to reach an agreement between the parties.
3. At the time of the building permit application for each lot, the applicant will be required to show compliance with the setback, height, and design feature standards.
4. The 36-inch caliper tree and the 24-inch caliper tree grouping located on proposed Lot 1 shall remain standing during subdivision construction. Future development of Lot 1 shall preserve the trees to the extent practicable and require a Type II Tree Removal Permit if intended to be removed prior to residential construction on Lot 1.
5. The tentative plat shall expire two (2) years from date of approval unless a final plat is recorded with the County prior to that date. The Director may, upon written request of the applicant prior to the expiration date, grant an extension of the approval period, not to exceed one (1) year. (TDC 7.060.A.)

Mr. Damgen continued that Public Works has several standards additions.

- 1) Developer shall be required to extend water and sanitary sewer services to the four (4) new lots.
- 2) The applicant will be required to complete the remaining "half street" improvements on the remaining frontage street of the proposed development, to complete the remaining north segment of the cul-de-sac in SE Hall Lane.
- 3) Applicant shall submit construction drawings for the Public Improvements through the Troutdale Permit counter and obtain review approval per the requirements of the Troutdale Development Code and Public Works Construction Standards. Construction of the Public Works shall not commence until the Developer receives an Authorization to Commence Construction from Public Works.

- 4) Applicant shall obtain an erosion control permit through the City and pass an initial erosion control inspection prior to commencing ground disturbing activity on the site.
- 5) Public infrastructure improvements must be completed prior to recording the final plat, unless the Developer provides a Performance Bond of 110% of the estimated cost of the public improvements.
- 6) The public improvements must be completed and receive a Certification of Completion from Public Works prior to issuance of building permits for the homes.

Mr. Damgen said the City did not receive any comments from Gresham Fire.

#### *Other Testimony*

After a break, Chair Staffenson asked if there were any questions for Staff. Ms. Glantz asked about the property to the east. Is it City of Troutdale, and if so, how is it zoned? Mr. Damgen answered that the property is outside of the City Limits and that is why Multnomah County was informed. Also, the property owner gets notified.

Mr. Wilcox commented that it was unusual to not receive any comments at all from Gresham Fire even though he knows personally that there's a fire hydrant that's accessible to the sites.

Ms. Glantz asked Mr. Damgen to show the street view again. She asked if its culturally being used for agriculture. Mr. Damgen said he did see a patch of corn in the picture.

Chair Staffenson asked if services run on Hall Street and Mr. Damgen answered that Staff would confirm that for him. Chair Staffenson asked if there would be swells and Mr. Damgen said that he would let the Applicant address that. Chair Staffenson said that he thought the engineer should get a gold star for this design.

Mr. Damgen said that next he wanted to remind the Planning Commission that unlike other applications where there might be 3-5 criteria that are made, there are several more with subdivisions. In the interest of time, he didn't want to cover all of them, but he wants to remind them that they are in their packets. The applicant also has a very clear narrative. To summarize, Staff feels very comfortable with this application and recommends approval with conditions.

Ms. Glantz asked if they would learn more about access to sites and Mr. Damgen answered that the Applicants would explain that. Mr. Wilson said he had a comment and question, referring to the criteria that public improvements shall be completed prior to the issuance of building permits. In your engineering division reports on page 2, it states "Contrarily, public sidewalks and driveways approaches typically defer to the homebuilding phase as the best practice as they may incur damage during homebuilding." Mr. Wilcox said that makes perfect sense to him and he'd like to see that exemption included in the condition of approval.

Mr. Damgen responded that it's not uncommon for driveways or alleys to be constructed, so that really would get discussed during the infrastructure and subdivision phase for the permit in terms of what needs to be done since that really belongs to Public Works' purview.

Chair Staffenson recognized the Applicant who said he wished to defer to his engineer, Ray Moore. The applicant is Tom Orth, 26951 SE Forrester Road in Boring, 97009.

The engineer introduced himself as Ray Moore with All County Surveyors and Planners, PO Box 955, Sandy, Oregon, and said his firm has been working with Mr. Orth for 20 years. He thanked Staff. He said 4 lots seemed reasonable and avoided the steep slopes, saved a couple of trees, while meeting the code criteria. He said one of the challenges was they are limited with how much frontage they have; however they looked at some real-world examples of footprints and how they function. He wants to be cautious not to plat anything that can't function in the future.

He said in response to the Commissioner's question about whether there are utilities in the street, yes, there's public sanitary, sewer and water and storm in the street. They do show in an exhibit how they're going to extend the sanitary sewer and add some new laterals. There's an existing fire hydrant and water, and they'll only need to add some water services. As far as street improvements, they just need to extend the curb around the arc of the remaining bulb. All of the public utilities will get extended prior to the new lots prior to the plat being recorded and then when the homes are built, the sidewalks and driveways will be built.

Ms. Prickett asked about the steep slope area, how it will be protected so it doesn't erode away and the people who buy the lots don't add to degradation so it doesn't slope away during a rain storm. Mr. Orth said that they had hired an engineer and a geo-tech to study this issue and to also do filtration testing. The stormwater on the street is collected and it drains to the existing catch basins built into the street. There's a detention tank. They had the same geo-tech do infiltration testing on the proposed private home lots. They take his infiltration rates and cut it in half and size this facility for the rooftops and basically, based on the houses that he's picked, they've already pre-sized and made sure there's enough room. The normal storm event will store enough water in the basin. He asked the geo-tech if that's going to de-stabilize the ground slope. Luckily, they did hit some fairly decent infiltration rates, and the Geo-tech is confident that this will not cause any erosion. In the event of a 100-year event where this facility isn't sized for that, the water will flow over the hillside much in the way that it does now.

Ms. Prickett asked how this will prevent the people who buy the property from changing that. Mr. Orth answered that the City of Troutdale has a stringent code of what you can and can't do in those areas to protect that from happening.

Ms. Glantz asked if he was going to build these as specs or customs. The owner answered that one of the lots is already spoken for and they are unresolved as to the final 3 lots.

Mr. Mammone said that he has collaborated with Mr. Orth on City of Gresham's Planning Commission when Mr. Mammone was a Planner for the City. He apologized for not making this relationship known earlier in the meeting. Mr. Moore said that it was the City's Design Commission. Mr. Mammone said that was correct. Chair Staffenson asked if he felt that would influence his decision in any way, and Mr. Mammone replied that it absolutely would. Chair Staffenson asked if there were any challenges for Mr. Mammone and there were none.

Mr. Wilcox said he had a few questions for the applicant. Referring to the curb cuts mentioned on page 15 for the driveways, realizing there's going to be shared driveways, he is curious about whether there will be raised curbs between the curb cuts. Mr. Orth shared his screen to show there is one driveway for each 2 lots. Mr. Wilcox asked if there are going to be raised curbs between the driveways. Mr. Orth said yes between 0 to 6 and back to 0 inches in a short section. Mr. Wilcox asked on page 2 of the engineering report from the City under sanitary sewer and the reference to "negative grade" and no reference to how that's going to be addressed. Eagle Ridge apartments had an issue with that and had to install a pump station. Mr. Orth said he designed that project and the pump station for it. He said he doesn't know what the negative grade is on the sheet but they did survey it and they do have a positive grade south flowing out of the existing manhole and so they are going to install new manholes with new positive grades. Regarding Lot 4, Mr. Orth said that it slopes away from the street so the sewer laterals will be at about 196.5 and that house may need a grinder pump. However, Mr. Moore is aware of that. Regarding the house on Lot 3, the laterals at 196 and the lowest grade is at 198, so he thinks they'll be able to get gravity to that one.

Chair Staffenson asked the Applicant to please address removing the improvements that had been made to one of the parcels and what that involved. He answered that they would be removing a retaining wall and shed that the existing owner had installed.

Chair Staffenson thanked the Applicant and asked if anyone wished to testify as a proponent for the application. There were none. He then asked if anyone wished to testify as an opponent to the application. No one did. He then asked if any neutral parties wished to testify.

Ms. Julie Dawn lives at 3164 SE Hall Lane, near the project, and said she'd attended to learn more about what was being proposed. She has lived in Troutdale since 1993, and she and her husband currently have two homes in Troutdale. They love the community and they are excited because they know the Applicant has built a beautiful home; however, she has a couple of concerns and would like to know what it will look like when it's completed. She is hopeful that the cul-de-sac won't look too crowded, and she wonders about the 3 houses on the east side of Hall. She and her husband live in the house on the end, next to the vacant lot. She shares with her neighbors a very pretty view off the back facing east. She commented that all of their decks are very private. She also feels that the layout of the driveways are unusual and would like clarification. Chair Staffenson asked if she had any other questions. She asked if those homes will be part of the HOA and if they're not, why?



Chair Staffenson asked if there were any other neutral parties that wished to testify.

Mr. Damgen said that he wished to offer more information about access in response to Ms. Glantz's question. There is a private drive that connects both of these lots. Also, he wanted to give accolades to Ms. Farrell and Ms. Shackelford, the Staff planners who have been involved with the application process.

Mr. Moore responded to Ms. Dawn's question. Lot 9 where she lives is 65-70 feet wide. The lot widths proposed match hers closely and while they may seem crowded since there is limited frontage but he doesn't think that will be a concern. Also, the current homeowners' private decks won't be affected since the new ones will have decks off the north side and they won't look into each other. Also, this is not part of any existing HOA.

Ms. Dawn asked if it's possible to build 3 homes instead of 4 homes to change the odd layout of the driveway. Mr. Moore said they had to meet city code criteria and 5.4 lots were allowed. The minimum density is 4 lots, and they are at its right now without getting a variance from the City. Mr. Damgen said that was correct and they would need to rezone the property.

Ms. Dawn asked if the homes were going to be facing the current homes and how far back they would start. Mr. Moore said yes hypothetically. Chair Staffenson said what they're looking at is the project and the zoning and what will work from a development code standpoint, so the pictures of the homes are hypothetical at this point.

Mr. Moore said that when they looked at this originally, they did feel that even if 6 lots were allowed that wouldn't be beneficial to anyone on the cul-de-sac. They could technically try for 5, but he is generously only requesting 4 so that it's a nice community for everyone instead of maximizing profit for himself.

**Ms. Prickett moved to close the public hearing and Ms. Glantz seconded. The motion to close the hearing passed unanimously.**

#### *Discussion and Voting*

Chair Staffenson asked for further questions or comments. Mr. Woidyla said this is one of the better presentations he's seen since joining the Commission. It's thorough and all of his questions have been answered. Ms. Glantz said she appreciated that it was very straightforward and made good use of the land. Ms. Prickett said she concurs and she likes the way it's laid out and has all the information needed to make a decision. Chair Staffenson said he gives them an A for creative development. Ms. Glantz said she couldn't remember a minimum density proposal and she appreciates it.

**Ms. Prickett moved to approve the conditions of approval for Case File # LU-0018-2020 Sandy Rim Subdivision and Ms. Glantz seconded the motion.**

Roll call vote:

Ayes: Prickett, Wittren, Mammone, Glantz, Wilcox, Woidyla, and Staffenson.

Nays: None.

Abstentions: None.

The motion passed unanimously.

Ms. Prickett moved to approve the Final Order and Findings of Fact as written for Case File # LU-0018-2020 and Ms. Glantz seconded the motion. A roll call vote was held:

Ayes: Prickett, Wittren, Mammone, Glantz, Wilcox, Woidyla, and Staffenson.

Nays: None.

Abstentions: None.

The motion passed unanimously.

## 5. Department Report

Mr. Damgen said that the Main Street Halsey Code Audit Project will be tabled until the next meeting. The commissioners can refer to the one-page memo in their packets which describes the project, looking at a two-phase project, the opportunity site analysis and second a code audit, which would have been a more technical discussion. Staff are still waiting for additional information which will be known before the December meeting and shared in the packets prepared for Commissioners.

Chair Staffenson asked if any model code would come out of this, and Mr. Damgen said yes, but it will not require the City to adopt the model code. This is a fulfillment of the work plan. There is a Town Center overlay district still under review. Staff will definitely have a memo referring to it, but this will merely be feedback based on suggestions to Staff. Chair Staffenson said he believes Troutdale's code will come under a great deal of scrutiny. Mr. Damgen replied that every city will be looking at how to make their code more developer-friendly or conducive to the type of development that people say they want to have. However, whether it's economically feasible remains to be seen. Chair Staffenson asked if Staff will go back to Metro and make suggestions to them? Mr. Damgen said that no, it's a Metro-funded project, but it's not in fulfillment of the 2040 grant that identified Halsey Street as a corridor. Ms. Glantz asked if the 3-city meeting was recorded. Mr. Damgen said he thought so.

Mr. Damgen said there were additional guests on the call, students from the University of Oregon's planning program who are taking Fall courses tied with the Sustainable City Year program. Staff appreciates them and hopes

that the meeting was enlightening. A student, Brendan Irsfeld, unmuted himself to say thank you allowing them to attend. Chair Staffenson said they enjoyed having them.

On a different note, Mr. Damgen said that Planner Arini Farrell and her husband have a new baby son who is happy and healthy. The family is doing fine and Ms. Farrell sends her best wishes to the Commissioners while she is on leave.

Mr. Damgen said that there will be an extra Planning Commission meeting on December 2 on the subject of the Rent Burden. This will be a virtual meeting only, beginning at 6 p.m. Staff are attempting to get the word out via social media and the web site. All are welcome.

Finally, the Town Center Plan is gradually moving forward and there will be a draft soon.

#### **6. Commissioner Comments**

Mr. Wittren asked Staff to provide a link to the recording of the 3-city meeting mentioned.

Ms. Prickett said she will miss Ms. Glantz and her poise and knowledge which she is sure will be shared with the City Council.

Ms. Glantz commented that she will share with anyone interested a public health link that allows you to know if you've been exposed to Covid-19.

Chair Staffenson said that the Salmon Bridge is really bumpy and needs to be repaired, asking Mr. Damgen if he could help. Mr. Damgen said he would bring that concern to Maintenance. Chair Staffenson said there's also been many traffic accidents when drivers headed south on the highway attempt to go north at the yield which isn't clearly marked. He asked if there could be an arrow painted there. Mr. Damgen said that this belongs to ODOT but he will pass this along.

#### **7. Adjourn**

Ms. Prickett moved to adjourn the meeting and Ms. Glantz seconded. The motion passed unanimously and the meeting was adjourned at 8:20 p.m.

APPROVAL OF MINUTES

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Tanney Staffenson, Chair

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Date of Approval

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Melissa Bocarde, Attest



## Staff Report

**Report Date:** December 7, 2020

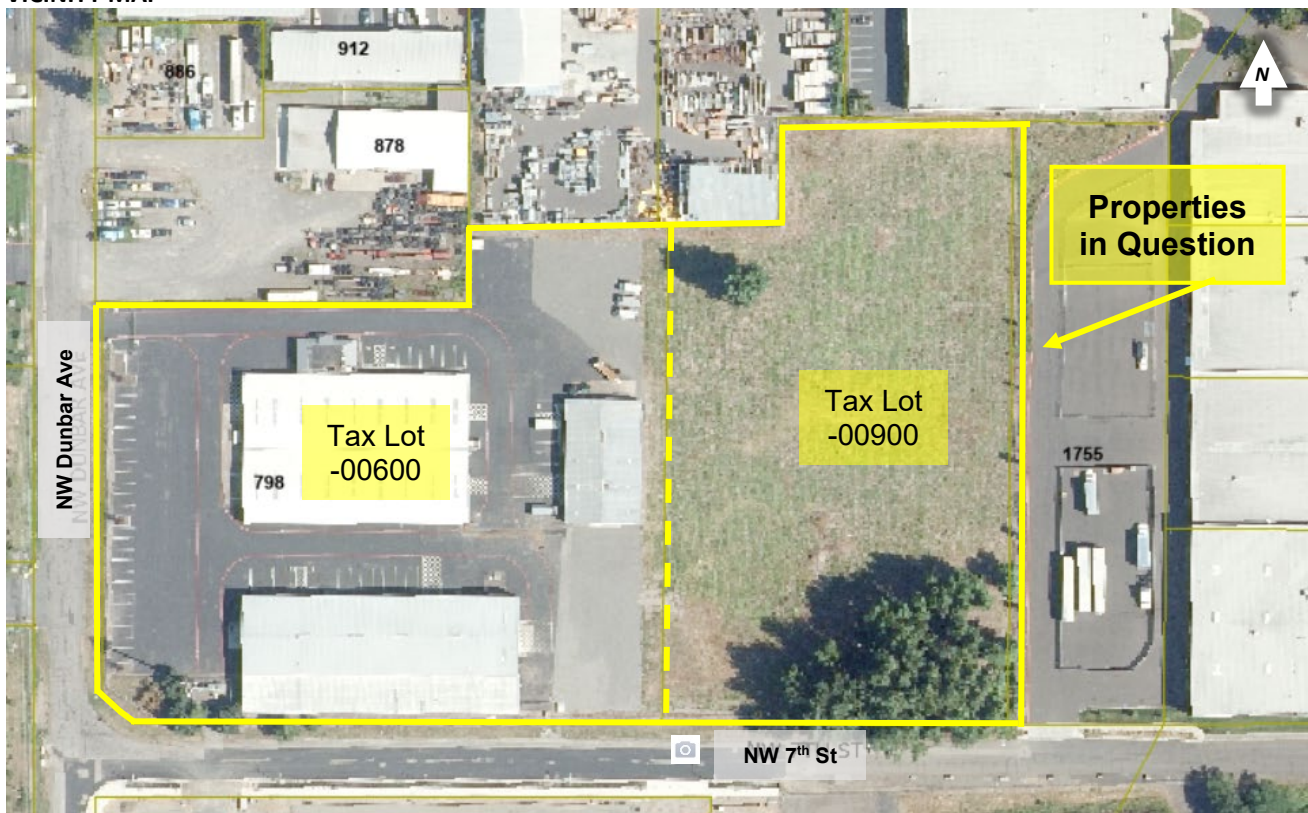
**Meeting Date:** December 16, 2020

|                    |   |                     |  |
|--------------------|---|---------------------|--|
| FILE NUMBER / NAME | LU-0015-2020 Dunbar Industrial Storage Yard       |                     |  |
| APPLICATION TYPE   | Type III Variance, Type I Site Development Review |                     |  |
| PROJECT APPLICANT  | Steve Kreitzberg, PIR Dunbar LLC                  | PROPERTY OWNER      | Same as applicant  |
| PROJECT LOCATION   | 798 NW Dunbar Ave                                 | TAX MAP / TAX LOT # | 1N3E26B -00600 / R943261070<br>1N3E26B -00900 / R943261430 |
| LAND USE MAP       | Industrial (I)                                    | LAND USE ACTIVITY   | Industrial   |
| ZONING DISTRICT    | GI – General Industrial                           | OVERLAY DISTRICT    | VECO   |

### PROPOSAL

The Applicant is applying to develop a pervious gravel pad for material and equipment storage. The Applicant is proposing for the gravel pad to cover part of lot 1N3E26B -00600, and the majority of the currently vacant lot 1N3E26B -00900. A Type III Variance is required because creating the gravel lot will require filling an entire wetland on site, which will disturb 100 percent of the vegetation corridor (VECO). No paving, new streets, or structures are proposed as part of this project, however the impervious conditions already exist. This application will bring this site into conformance. The Applicant intends to conserve the existing grove of trees on tax lot -00900.

### VICINITY MAP



Location of Street View Perspective

**STREET VIEW (Google 2019)**View of Property in Question looking north from NW 7<sup>th</sup> St.**APPLICATION HISTORY**

A pre-application was held for this application on May 5, 2020. The Applicant submitted materials for this application on September 10, 2020 and it was deemed incomplete on September 24, 2020. The Applicant resubmitted materials on October 13, 2020. The application was deemed complete November 5, 2020, and the Notice of Application was sent to reviewers and nearby property owners November 12, 2020. The public hearing is scheduled for December 16, 2020.

**PROCEDURE**

This application is undergoing a Type III quasi-judicial procedure. [TDC 2.060 and 6.1300] This procedure requires a Public Hearing and Planning Commission review in order to be adopted. Planning Commission is the decision-making body for this application and may approve, approve with conditions, or deny this application. Nearby property owners, relevant review entities, and other stakeholders have been notified accordingly. [TDC 2.075 - 2.090]

**APPLICABLE CRITERIA**

- *Troutdale Development Code (TDC): Ch. 1* Introductory Provision; **Ch. 2** Procedures for Decision Making; **Sec. 3.170** General Industrial (GI); **Sec. 4.300** Vegetation Corridor and Slope District; **Sec. 5.600** Erosion Control and Water Quality Standards; **Sec. 5.700** Stormwater Management; **Sec. 5.1000** Public Improvements; **Sec. 6.900** Site Development Review; **Sec. 6.1300** Variance; **Ch. 9** Off-Street Parking & Loading; **Ch.11** Landscaping and Screening **Ch. 17** General Provisions
- *Troutdale Municipal Code:* 8.26 Outdoor Lighting; 13.10.270 Tree Removal
- *City of Troutdale Comprehensive Land Use Plan*
- *Construction Standards for Public Works Facilities*
- Building and Fire Codes

**REVIEW ENTITY COMMENTS**

Listed below are review entities who received the Notice. If the entity provided comments, they can be found in a corresponding attachment.

| Review Entity                     | Comments     | Review Entity                    | Comments     |
|-----------------------------------|--------------|----------------------------------|--------------|
| Public Works                      | Attachment 1 | Mid-County Lighting District     | Attachment 4 |
| Building Division                 | Attachment 2 | Mult. Co. Drainage District      | None         |
| Gresham Fire & Emergency Services | Attachment 3 | Oregon Department of State Lands | Attachment 5 |

**OTHER COMMENTS**

As of the date of this Staff Report, no written testimony from other parties or stakeholders have been received.



## RECOMMENDATION

For this application, Staff recommends Planning Commission vote for ***approval with conditions***.

Staff has prepared a draft ***Findings of Fact and Final Order*** document, outlining how the decision criteria for this application were satisfied, along with proposed conditions of approval as outlined by the review entities. Any subsequent approvals from the City shall not be issued until all conditions listed in the attachments are adequately addressed as determined by the appropriate review entity. Planning Commission reserves the right to amend the draft and proposed conditions unless other governing documents or agreements state otherwise.

## PROPOSED CONDITIONS OF APPROVAL

### City of Troutdale Planning Division

1. Applicant shall be required to satisfy comments made by review entities, included in the attached Findings of Fact, or shall work with Staff to reach an agreement between the parties.
2. Applicant shall submit an updated landscaping plan to meet the requirements of Chapter 11, including an Operations & Maintenance Plan showing that landscaping will be sufficiently irrigated.
3. Applicant shall provide to the City the approved Joint Permit Application prior to the issuance of grading permits.
4. Site-obscuring shrubbery or a berm, wall, or fence shall be placed along the boundary of the equipment storage area and meet the standards in TDC Sec. 5.050.
5. All on-site improvements, including but not limited to the maintenance of the gravel, shall be the ongoing responsibility of the property owner or occupant.
6. The approval of case file LU-0015-2020 shall expire automatically two (2) years from the effective date of the decision unless the approval is enacted either through construction, establishment of use, or recordation of plat or survey within the specified time period. The effective date of the decision shall be the date of the Notice of Decision, unless such decision is appealed.

### City of Troutdale Public Works Department

1. Applicant shall obtain an erosion control permit through the City and pass an initial erosion control inspection prior to commencing ground disturbing activity on the site.

### City of Troutdale Building Division

1. Following Land Use approval, the applicant shall contact the Building Division to begin the submittal process for grading and erosion control permits as well as any applicable trade permits.

### City of Gresham Fire & Emergency Services

1. Required Fire Dept. Access Roads on site shall be designed to support an apparatus weighing 75,000 lb. gross vehicle weight. Provide an engineer's letter stating the access road meets those requirements at time of building permit submittal. ***OFC, Appendix D, Section D102.1***
2. The turning radius for all emergency apparatus roads shall be: 28' inside and 48' outside radius. ***OFC 503.2.4***
3. No Parking Fire Lane signage or curb marking will be required. Fire access roads 20' – 26' wide require the marking on both sides. Indicate on the building permit plans. Red EZ roll delineators were previously

approved for lane markings. Survey whiskers are not a permitted method of fire lane marking, as shown on plans. Fire lane signage will also be required at each entry point. **OFC D 103.6**

4. If a gate is installed on a fire access road, it must meet the requirements of the Gresham Fire Gate Policy. A KNOX lock box will be required at the gate(s). **OFC 506.1**

#### **GENERAL INQUIRIES**

For more information, please contact Amber Shackelford at [amber.shackelford@troutdaleoregon.gov](mailto:amber.shackelford@troutdaleoregon.gov) or at (503) 674-7230.





# CITY OF TROUTDALE

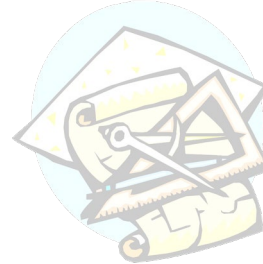
## MEMO - Engineering Division

**Date:** November 25, 2020

**From:** Nick Massey, Engineering Associate *NM*

**To:** Planning

**CC:** File  
Fred Ostler, Public Works Director  
David Schaffer, Water & Streets Superintendent  
Shawn Anderson, Wastewater Superintendent  
Ryan Largura, Environmental Specialist



**RE: Type III Variance, Type I Site Development Review, Dunbar Industrial Storage Yard  
(File No. LU-00150-2020)**

The Public Works Department has reviewed the Type III Variance, Type I Site Development submittal for the Dunbar Industrial Storage Yard. These comments are divided into two categories: general comments and proposed conditions. General comments are informational points to guide the applicant in the proper planning of public works infrastructure for this project, to inform the applicant of possible extraordinary issues and/or to provide the basis for findings. Proposed conditions are requirements that Public Works recommends be formally imposed on the developer in the final order. Note that references to the "City Standards" herein refer to the *Construction Standards for Public Works Facilities*.

### General Comments/Findings

1. Any and all utility and transportation plans submitted with this application have been reviewed for the purpose of determining the feasibility of providing utility and transportation facilities for the project in accordance with City Standards. This land use approval does not constitute final approval of details, including but not limited to alignments, materials and points of access, connection or discharge, that are depicted or suggested in the application. The applicant is required to submit detailed construction drawings and/or plat drawings for the project, as applicable. The City of Troutdale Public Works Department will review plans, in detail, when they are submitted and approve, reject or require modifications to the plans or drawings based upon conformance with City Standards, the TDC and the professional engineering judgment of the Chief Engineer.
2. It is the opinion of the Public Works Department that the proposed Dunbar Industrial Storage Yard can be developed in accordance with the requirements of the Troutdale Development Code (as it pertains to Public Works requirements) and Construction Standards, provided it fully addresses the comments and conditions contained herein, and can be approved.

3. The existing facility on Tax Lot 600 is currently served by public water and sewer. The applicant does not need or propose to connect Tax Lot 900 to the public water or sanitary sewer systems, and there is no requirement under public works regulations to do so, as there is no building or other facility proposed on TL 900 that needs running water or sewer service.
4. The applicant is not proposing any new or redeveloped impervious area or any public storm drainage improvements. Therefore, stormwater quality retrofits are not required, and Troutdale Public Works does not require a Stormwater Management Report.
5. The applicant proposes ground disturbance of greater than 1 acre during construction. An NPDES 1200-C permit for erosion control will be required. See <http://www.oregon.gov/deg/wq/wqpermits/Pages/Stormwater-Construction.aspx>. The City of Troutdale is an NPDES 1200-C permitting agent for DEQ, permit applications are submitted to the City's permit counter. If ground disturbance will exceed 5 acres, the 1200-C application will require a 2-week posting and public comment period prior to issuance.
6. The applicant has submitted a preliminary trip generation estimate prepared for the recently planned cannabis production land use application. This trip generation estimate is not applicable to this industrial storage yard land use application. However, the applicant has stated in the application that no change is proposed in the existing manufacturing use on the site. Therefore, PW does not anticipate an unacceptable traffic impact on City-owned streets.
7. The applicant will be required to submit an online Industrial User Wastewater Survey (IUWS) with building permit applications. Review of the IUWS may reveal additional sanitary sewer pretreatment requirements. If no building permits will be required, the IUWS must be submitted prior to commencing operation of the facility. The link to the online IUWS is available at <https://www.troutdaleoregon.gov/publicworks/page/public-works-forms-permits>. If needed, contact Ryan Largura, Environmental Specialist in Public Works, for assistance in completing this survey.
8. System development charges will be due when building permits are issued. The SDC worksheet is available at <https://www.troutdaleoregon.gov/publicworks/page/system-development-charges>. Contact Public Works if needed for assistance in completing this worksheet and in determining any available credit on the property. **System development charges will be adjusted for inflation on January 1st based on the Engineering New Record Construction Cost Index for Seattle, WA.** The building permit issuance date determines applicable rates. Permits issued on or after the corresponding dates will be charged the rates in effect on that date. Partial or full onsite retention/disposal of stormwater may allow an up to 70% (prorated) reduction in the City's monthly stormwater user fee. 100% onsite retention/disposal of stormwater will result in no stormwater SDC (no proration).

### Proposed Conditions

1. Applicant shall obtain an erosion control permit through the City and pass an initial erosion control inspection prior to commencing ground disturbing activity on the site.



## MEMORANDUM

**DATE:** November 20, 2020  
**FROM:** Heather Jones, Building Inspector I (on behalf of the Building Official)  
**TO:** Planning Division  
**SUBJECT:** Building Division Comments – Dunbar Industrial Storage Yard (LU-0015-2020)

The Building Division has reviewed the application submittal for **Dunbar Industrial Storage Yard (798 NW Dunbar Ave.)** and provides the following conditions and comments [based on the 2019 Oregon Structural Specialty Code (*Building Code*)]:

### Comments

- This application is for a gravel storage lot with no proposed structures. Additional review and potential permitting will be required if additional structures are proposed.
- Adopted building codes may be viewed online free of charge at the Oregon Building Codes Division website at <https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx>.

### Conditions

- Following Land Use approval, the applicant shall contact the Building Division to begin the submittal process for grading and erosion control permits as well as any applicable trade permits.

### **CONTACT INFORMATION:**

Sean Blaire, Building Official  
City of Troutdale Building Division  
(503)618-2794  
[sean.blaire@greshamoregon.gov](mailto:sean.blaire@greshamoregon.gov)

Heather Jones, Building Inspector I  
City of Troutdale Building Division  
(503)674-7262  
[heather.jones@troutdaleoregon.gov](mailto:heather.jones@troutdaleoregon.gov)

**PROJECT #: LU-0015-2020** 798 NW Dunbar

**FROM:** Samantha Chandler

**DATE:** 11/18/2020

**FIRE COMMENTS:** This review is for a storage yard with no proposed buildings. Additional review is required if and when buildings are proposed.

**NOTE: Building permit plans shall include a separate "FIRE ACCESS AND WATER SUPPLY PLAN" indicating all of the following**

1. Required Fire Dept. Access Roads on site shall be designed to support an apparatus weighing 75,000 lb. gross vehicle weight. Provide an engineer's letter stating the access road meets those requirements at time of building permit submittal. ***OFC, Appendix D, Section D102.1***
2. The turning radius for all emergency apparatus roads shall be: 28' inside and 48' outside radius. ***OFC 503.2.4***
3. No Parking Fire Lane signage or curb marking will be required. Fire access roads 20' – 26' wide require the marking on both sides. Indicate on the building permit plans. Red EZ roll delineators were previously approved for lane markings. Survey whiskers are not a permitted method of fire lane marking, as shown on plans. Fire lane signage will also be required at each entry point. ***OFC D 103.6***
4. If a gate is installed on a fire access road, it must meet the requirements of the Gresham Fire Gate Policy. A KNOX lock box will be required at the gate(s). ***OFC 506.1***

TO: Amber Shackelford, Assistant Planner

FROM: Chet Hagen, Program Manager

DATE: November 30, 2020

SUBJECT: LU-0015-2020 Dunbar Industrial Storage Yard

Amber:

The District would strongly recommend that street lighting improvements be conditioned for the approval of the LU-0015-2020 Dunbar Industrial Storage Yard project. Previous attempts to supplement street lighting on NW Dunbar Ave has not proven successful due to failed negotiations with utility pole owners. I have personally spoken with property owners in this area, and they have expressed concern with the lack of street lighting.

Regards,



Chet Hagen



## Wetland Land Use Notice Response

### Response Page

Department of State Lands (DSL) WN#\*

WN2020-0827

### Responsible Jurisdiction

**Staff Contact**

Amber  
Shackelford

**Jurisdiction Type**

City

**Municipality**

Troutdale

**Local case file #**

LU-0015-2020

**County**

Multnomah

### Activity Location

**Township**

01N

**Range**

03E

**Section**

26

**QQ section**

B

**Tax Lot(s)**

600,900

Street Address

798 NW Dunbar Ave

Address Line 2

City

Troutdale

Postal / Zip Code

97060

State / Province / Region

OR

Country

Multnomah

**Latitude**

45.545968

**Longitude**

-122.405222

### Wetland/Waterway/Other Water Features

☒ There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.

☒ The National Wetlands Inventory shows wetland, waterway or other water features on the property

☒ The county soil survey shows hydric (wet) soils on the property. Hydric soils indicate that there may be wetlands.

### Your Activity

☒ It appears that the proposed project **will** impact wetlands and **requires** a State Permit.

## Applicable Oregon Removal-Fill Permit Requirement(s)

☒ A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

## Closing Information

### Additional Comments

This site is associated with concurred delineation WD2020-0311. A permit for the proposed fill activity is currently under review. The applicant should continue to work with Aquatic Resource Coordinator Melinda Butterfield on permitting requirements for this project,

**This is a preliminary jurisdictional determination and is advisory only.**

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

☒ A Federal permit may be required by The Army Corps of Engineers: (503)808-4373

### Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

### Response Date

11/23/2020

### Response by:

Chris Stevenson

### Response Phone:

503-986-5246

# **Dunbar Industrial Storage Yard**

798 NW Dunbar Avenue

Troutdale, Oregon

An Application For:

**Type I Site Development Review**

**Type III Variance**

**Submitted to the City of Troutdale – August 2020**

**Revised October 2020**

Prepared by:





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# I. INTRODUCTION

## General Information

|                                     |   |
|-------------------------------------|---|
| <b>Applicant:</b>                   | <b>PIR Dunbar Avenue, LLC</b><br>Steve Kreitzberg<br>975 SE Sandy Blvd Suite 200<br>Portland, OR 97214<br>503.358.4567<br>stevek@phoenixindustrialredevelopment.com                                     |
| <b>Applicant's Representative</b>   | <b>DOWL</b><br>Kaitlin La Bonte, AICP, Land Use Planner<br>720 SW Washington Street, Suite 750<br>Portland, Oregon 97205<br>971.229.8325<br>kberger@dowl.com  |
| <b>Tax Lot ID:</b>                  | 1N3E26B-00600<br>1N3E26B-00900  |
| <b>Location:</b>                    | NW Dunbar Avenue  |
| <b>Applicable Zoning Districts:</b> | General Industrial (GI)   |
| <b>Exhibits</b>                     | A. Plan Set<br>B. Pre-Application Summary<br>C. Trip Generation Assessment<br>D. Wetland Delineation Report<br>E. Joint Permit Wetland Fill Application<br>F. Vegetation Corridor Mitigation Memorandum |

## Project Overview

The applicant, PIR Dunbar Avenue, LLC, is proposing to develop a pervious gravel pad for equipment and material storage on a vacant portion of the subject site on NW Dunbar Avenue (see Figure 1 for a vicinity map). The proposed gravel pad will not include paving and will utilize the existing access to NW Dunbar Avenue; no new public street access is proposed. Fire access will be provided from the existing onsite circulation access as shown on the site plan (Exhibit A), and additional fire access circulation will be provided through the proposed gravel storage area. The fire truck lane will be demarcated through the gravel yard using Survey Whiskers. No site lighting, structures, or utility services are being proposed.

The proposed gravel pad will be owned and managed by PIR Dunbar Avenue, LLC and no change is proposed to the existing manufacturing use on the western portion of the site. The vacant area on the eastern portion of the site will be used for equipment and material storage, which is a permitted use in the GI zone.

## Existing Conditions

The site is currently zoned GI (General Industrial) and includes two tax lots, 1N3E26B -00600 and 1N3E26B -00900. The western portion of lot 00600 contains three buildings and associated site improvements. The eastern portion of the site is vacant. The site is currently fenced with chain-link security fence around the perimeter. A grove of trees lies at the southeast portion of lot 00900; this existing grove is proposed to be preserved. A summary of surrounding land uses is provided in Table A below.

**Table A: Surrounding Zoning & Land Uses**

| Location | Zoning Designation                   | Land Use   |
|----------|--------------------------------------|--|
| North    | General Industrial                   | Industrial uses  |
| South    | General Industrial / Industrial Park | NW 7 <sup>th</sup> St<br>Industrial uses (across NW 7 <sup>th</sup> St)<br>Vacant (across NW 7 <sup>th</sup> St) |
| East     | General Industrial                   | NW Dunbar Ave<br>Industrial uses   |
| West     | General Industrial                   | Industrial uses  |

There is a 4,180 square foot wetland area located within the central portion of the proposed gravel yard area. This wetland is an isolated feature that has no hydrologic connection to other wetlands or waters. A Joint Permit application has been filed to the U.S. Army Corps of Engineers and Oregon Department of State Lands (DSL) on July 27, 2020 for fill of the entire 4,180 square foot (.09 acre) wetland. Because no In-Lieu Fee sites or Mitigation Banks currently service the project area, the applicant is proposing to pay into the DSL Payment-in-lieu (PIL) fund to mitigate the lost wetland functions and values. Payments into the PIL fund are used to construct state-run mitigation sites that provide ecological improvements within watersheds where future wetlands impacts are anticipated. The state-run banks are used to generate mitigation credits to offset losses to wetland or waterway functions and are not conducted for profit.

The Joint Permit Application, included as Exhibit E, contains an Existing Wetland Function and Value Assessment, which describes the functions of the wetland according to the group-level functions and values outlined in the Oregon Wetland Assessment Protocol (ORWAP); the information from this assessment is included in Table B below. As shown in Table B, the wetland is rated as Low or Low-Moderate in terms of Hydrologic Function, Water Quality Support, Fish Habitat, Aquatic Habitat and Ecosystem Support.

**Table B. Existing Wetland Function and Value Assessment**

| Group-Level Functions  | Function Group Rating | Value Group Rating | Rationale  |
|--|-----------------------|--------------------|--|
| Hydrologic Function  | Low-Moderate          | Low                | The wetland has a flat gradient but is isolated and very small in size. Further, even though it is inundated only seasonally during prolonged rainfall events, it lacks complex microtopography. In addition, the wetland has a very small contributing area and no outlet, thereby minimizing the value it provides related to water storage.   |
| Water Quality Support  | Low                   | Low-Moderate       | The wetland would not be effective at maintaining or reducing summertime water temperatures, as the wetland is dry during the summertime and the groundwater table is well below the ground surface. Further, the wetland lacks vegetative complexity (no woody species) and microtopography. Because the wetland is in a highly developed industrial area, there is some value in its ability to improve water quality, albeit only locally due to the lack of an outlet/surface water connection to any non-wetland waterway.  |
| Fish Habitat   | Low                   | Low                | The wetland does not provide fish habitat functions and values due to the lack of a surface water connection to other wetlands or waters, including fish bearing streams.  |
| Aquatic Habitat  | Low                   | Low                | The wetland is a seasonally saturated wetland with surface water present only after heavy rain events, which lasts less than seven consecutive days during the growing season. When it is present, water depths are minimal, and the ponded areas are likely scattered and very small in size. These areas would not support an abundance and diversity of native amphibians, and waterbirds would not likely use these areas for feeding or nesting. Likewise, the value rating for this group should also be low, as the wetland does not provide any unique habitat or support any rare, threatened, or endangered aquatic species. |
| Ecosystem Support*   | Low                   | Low                | Wetland A is a small, isolated wetland that lacks an outlet and has very little fluctuation in seasonal water levels. Further, the wetland is characterized by a mostly uniform vegetation height comprised of native and non-native grasses and forbs; no woody species are present aside from the dense blackberry within the surrounding upland. The wetland lacks live and downed woody vegetation and microtopography and is located within a densely developed industrial area.  |
| * Based on the review of aerial imagery and site photographs prior to ground disturbance |                       |                    |  |

Source: NW Dunbar – Gravel Yard Joint Permit Application July 27, 2020

**Figure 1. Vicinity Map**



### **Requested Approval**

The proposed gravel storage yard requires a Type I Site Development Review approval, per Troutdale Development Code (TDC) Section 6.900. Additionally, the proposal development requires filling the entire wetland area on-site, resulting in the removal of the surrounding 50-foot Vegetation Corridor (VECO) buffer. Therefore, a Type III Variance is required, per TDC 4.313.D, in order to remove the wetland and 100 percent of the Vegetation Corridor (VECO) from the site. Applicable sections of the Troutdale Development Code and Municipal Code are addressed in this narrative.

## II. TROUTDALE DEVELOPMENT CODE

This section contains applicable standards and criteria from the Troutdale Development Code (TDC), along with responses to demonstrate project compliance. Code sections that are not applicable are not included.

### CHAPTER 2 – PROCEDURES FOR DECISION-MAKING

#### **2.010 Procedures for Processing Permits.**

- B. *When an application and proposed development is submitted, the Director shall determine the type of procedure the Code specifies for its processing and the potentially affected agencies. When there is a question as to the appropriate type of procedure, or if the Director contemplates that persons being notified of the application can be expected to question the application's compliance with the Code, the application proposal shall be processed under the higher type procedure. An application shall be processed under the highest numbered procedure required for any part of the development proposal.*

**Response:** Per the pre-application conference comments dated May 5, 2020, included as Exhibit B, the requested application will be processed as a Type I Site Development Review and a Type III Variance to the VECO standards.

#### **2.030 Application Materials.**

*A land use application shall consist of the materials specified in this Section, plus any other materials required on the application form.*

- A. *A completed application form.*
- B. *An explanation of intent, stating the nature of the proposed development, reasons for the request, and any other evidence showing compliance with applicable criteria of the Troutdale Development Code.*
- C. *Proof that the property affected by the application is in the exclusive fee ownership of the applicant, or that the applicant has the consent of all parties in ownership of the affected property.*
- D. *County Tax lot numbers and legal description of the affected properties; a copy of the recorded deed with description and County Tax Lot numbers of the affected property.*
- E. *Additional information required by other Sections of this Code because of the type of development proposal or the area involved.*
- F. *Payment of all applicable application fees.*

**Response:** This submittal package includes all materials and fees required by Section 2.030. This narrative satisfies item 2.030.B.

### CHAPTER 3 – ZONING DISTRICTS

#### **3.170 GENERAL INDUSTRIAL**

##### **3.172 Permitted Uses. The following uses and their accessory uses are permitted in the GI district:**

- D. *Freight and trucking firms.*
- E. *Automobile, truck, trailer, heavy equipment, recreational vehicle, boat and manufactured home sales, rentals, and repair shops.*
- L. *Other uses similar in nature to those listed above.*

**Response:** The General Industrial district allows for a variety of large freight and trucking uses. The proposed equipment storage yard is similar to the uses listed in D and E above and is therefore an allowed use on the proposed development site.

### **3.174 Dimensional Standards.**

**A. Setbacks.**

1. *Front: Twenty (20) feet.*
2. *No side or rear yard setbacks unless the property abuts a parcel of land in a more restrictive manufacturing or commercial district, in which case the requirements of the abutting zoning district shall apply.*
3. *Additional setback requirements: If any use in this district abuts or faces any residential zoning district, a setback of fifty (50) feet from the property line or centerline of an intervening public street, on the side abutting or facing the residential or apartment district shall be required.*
4. *Setbacks for insufficient right-of-way: Setbacks shall be established when a lot abuts a street having insufficient right-of-way width to serve the area. The necessary right-of-way widths and the setback requirements in such cases shall be based upon the Comprehensive Land Use Plan and applicable ordinances and standards.*

**Response:** The subject site is on a corner lot. Per the City's definition of "front lot line", front lot lines on corner lots may face either street. The applicant has designated the lot line facing NW Dunbar Ave as the front lot line. Therefore, the 20-foot front setback applies along the NW Dunbar Ave frontage. As shown on the Site Plan, Sheet C200 of Exhibit A, a 20-foot front setback is existing along the site's frontage with NW Dunbar Ave. No changes are proposed to the existing front setback. Per the standard above, no other setbacks (side or rear) are required for the site.

**B. Height Limitation. None, unless otherwise limited by the Federal Aviation Administration.**

**Response:** No buildings are proposed with this application and there is no height limitation for this site.

**C. Lot Area. Division of lots or parcels are permitted as follows:...**

**Response:** No lot division is proposed with this application. This standard does not apply.

### **3.175 Additional Requirements.**

**A. Unless otherwise provided in this Code, compliance with Chapters 8 and 11 relating to design review and landscaping is required.**

**Response:** Compliance with Chapters 8 and 11 is demonstrated in the corresponding sections of this narrative.

**B. All lots shall have frontage or approved access to public streets, public water, and public sewer before development is allowed.**

**Response:** The site has frontage on NW Dunbar Ave and NW 7<sup>th</sup> Street. Access to the site is taken from NW Dunbar Ave; no change is proposed to the existing access and no new access is proposed with this application. No change

is proposed to the existing manufacturing use on the western portion of the site, which is adequately served by public water and sewer. The proposed equipment storage on the eastern half of the site will not require sewer service or new water service.

- C. *Off-street parking spaces shall be provided in accordance with the requirements of Chapter 9, Off-Street Parking and Loading, of this Code.*

**Response:** Existing off-street parking spaces comply with the requirements of Chapter 9, as demonstrated in the corresponding section of this narrative. No changes are proposed to the parking area and no new parking is proposed.

- D. *Commercial uses within industrial flex-space buildings are subject to the following standards:*

1. *No one commercial use shall exceed five thousand (5,000) square feet of gross leasable area and the cumulative area of all such uses shall not exceed twenty thousand (20,000) square feet of the gross leasable area of a single flex-space building or of multiple buildings that are part of the same development project.*

**Response:** No commercial uses or new buildings are proposed with this application. This standard does not apply.

2. *Drive-thru and drive-up service windows are not permitted.*

**Response:** No drive-thru and drive-up service windows are proposed with this application. This standard does not apply.

- E. *Development is subject to compliance with any applicable overlay zoning district standards.*

**Response:** The site contains areas within the Vegetation Corridor (VECO) overlay. Compliance with applicable VECO overlay provisions is demonstrated in Section 4.300 of this narrative.

## CHAPTER 4 – ZONING DISTRICT OVERLAYS

### 4.300 VEGETATION CORRIDOR AND SLOPE DISTRICT VECO

#### 4.311 Applicability.

*These standards apply to all development in the Vegetation Corridor and Slope District as defined in Section 1.040, Vegetation Corridor and Slope District, and Water Quality and Flood Management Definitions, of this Code and to the Metro Title 13 Habitat Conservation Areas of all City-owned and Metro-owned parks and greenspaces as shown on the Metro Title 13 Habitat Conservation Area map. The vegetation corridor, inclusive of the wetland areas identified on the U.S. Department of the Interior, Fish and Wildlife Service National Wetland Inventory 1988 (NWI), are generally mapped on the Metro Title 3 map. Metro's Title 3 and Title 13 maps are used as reference only. Not all wetlands recognized by the Oregon Division of State Lands are mapped on either the NWI or Title 3 map.*

- A. *Specific determination of the vegetation corridor and slope district shall be made at the time of a development proposal. The final boundary shall be based on a topographical and slope analysis provided by a professional licensed surveyor in the State of Oregon, and a wetland delineation, if applicable, submitted by a qualified wetland specialist. The Oregon Division of State Lands must approve delineations of wetlands under their jurisdiction. The City will keep a record of all surveys and*



wetland delineations as revisions to the local copy of the Title 3 map. The survey will be used instead of the Title 3 map to determine the vegetation corridor width. The City will submit this information to Metro for future updates of the Title 3 map.

1. *The vegetation corridor is the minimum buffer width to be established between development and a protected water feature as defined in Section 1.040, Vegetation Corridor and Slope District, and Water Quality and Flood Management Definitions, of this Code. The vegetation corridor width is determined by following the methods established in Sections 4.316, Width of Vegetation Corridor, and 4.317, Method for Determining Vegetation Corridors Next to Primary Protected Water Features, of this Chapter.*
2. *The slope district consists of slopes of twenty-five percent (25%) or greater that have a horizontal distance of fifty (50) feet or greater in any area of the City.*

**Response:** This application includes a Wetland Delineation Report (Exhibit D) completed in June 2020 by a qualified wetland specialist, showing a 4,180 square foot wetland on-site. Section 4.316 requires a 50-foot buffer for the wetland on-site. A Joint Permit Application for fill of the wetland on-site was submitted to the Department of State Lands and US Army Corps of Engineers on July 27, 2020. This application requests a variance to the VECO standards to remove the required 50-foot VECO buffer in conjunction with the proposed fill of the wetland on the site.

#### **4.312 Uses within the Vegetation Corridor and Slope District**

##### **4.313 Approval Procedures. Permits are required for all uses within this district:**

- D. *Type III Procedure. A variance from the standards of this Chapter shall be a Type III procedure. The Planning Commission shall review variances to this Chapter pursuant to Section 6.1300, Type III Variance, of this Code. An affirmative finding must be made, with or without conditions, for each variance criteria.*

**Response:** This application requires a variance to standard TDC 4.315.A.2.a which states that a maximum of 30 percent of the total area of the VECO may be used for the development. This variance will be processed as a Type III procedure.

##### **4.314 Submission Requirements. An application for a development approval shall include the following information:**

- A. *Site Development Application. A site development application, for the purpose of implementing this Chapter, shall consist of a grading and erosion control plan and a water quality plan. The applicant shall be responsible for submitting such information with a land use application.*
  1. *Grading and erosion control plan. The grading and erosion control plan for the development shall comply with the City's Construction Standards for Public Works Facilities, appropriate standards of the Sandy Drainage Improvement Company, this Chapter, and Chapter 5.600, Erosion Control and Water Quality Standards, of this Code. The grading plan shall include information on terrain (two foot contours), drainage, direction of drainage flow, location of surface and subsurface devices, retaining walls, water wells, dams, sediment basins, storage reservoirs, gas pipeline easements, or other in-ground utilities, either public or private, which may be affected by the proposed grading operations.*
    - a. *A current topographical survey shall be prepared for the entire site. The contours shall be at two (2) foot intervals.*

- b. *At least three (3) slope measurements along the affected water feature shall be made, at no more than one hundred (100) foot increments.*
- c. *The contour maps identifying slope percentages shall be prepared and certified by a licensed professional. The mapping shall depict the width of the vegetation corridor as established in Sections 4.316, Width of Vegetation Corridor, and 4.317, Method for Determining Vegetation Corridors Next to Primary Protected Water Features, of this Chapter. The vegetation corridor width will vary from site to site.*
- d. *The grading plan shall also include a construction phase erosion control plan and a schedule of operations, and shall be prepared by a professional engineer registered in Oregon.*

**Response:** A Grading and Erosion Control Plan consistent with the requirements of this subsection is included in the plan set, Exhibit A, as Sheet C300.

- 2. *Water quality plan. The applicant's engineer shall provide a water quality plan, consistent with the provisions of Chapter 5.600, Erosion Control and Water Quality Standards, of this Code and with the State of Oregon Department of Environmental Quality's National Pollutant Discharge Elimination System (NPDES) program.*

**Response:** During the permitting phase of the project, the applicant will submit for the required Oregon Department of Environmental Quality (DEQ) National Pollutant Discharge Elimination System (NPDES)-1200C permit consistent with the provisions of Chapter 5.600 and DEQ's NPDES program.

- B. *A hydrology, geology, and soils report of the site in accordance with the following:*
  - 1. *Prepared by a qualified, licensed professional such as a geotechnical engineer, and certified by the same.*
  - 2. *Includes information on the hydrological activities of the site, the effect of hydrologic conditions on the proposed development, and any hydrological or erosion hazards.*
  - 3. *Quantifies the current stormwater volume and rate that leaves the site and shows direction of flow within the site and toward adjoining properties.*
  - 4. *Includes recommendations for the engineering and location of onsite detention facilities to meet the standards of Chapter 5.700, Stormwater Management, of this Code.*
  - 5. *Depicts all stormwater facilities (swales, detention or retention ponds) existing or proposed, and shows the finished contours and elevations, including all cut and fill slopes and proposed drainage channels.*
  - 6. *Describes how the site is suitable for the proposed use, and why there is no practicable alternative to the site.*
  - 7. *Includes geological characteristics of the site and identifies any geological hazard that might present a hazard to life and property, or adversely affect the use or stability of a public facility or utility.*
  - 8. *Includes information on the nature, distribution, and strength of existing soils and an assessment of grading procedures required to impose the minimum disturbance to the existing topography and native vegetation.*

**Response:** This application proposes a gravel storage yard over a vacant portion of the lot. A Geotechnical Report is not required. The applicant is not proposing any new impervious area, any new stormwater utility services to the site, or any modifications to the site's existing connection to the public storm drainage system; therefore, stormwater quality retrofits or upgrades are not required under Troutdale Public Works Standards. A stormwater report has not been provided. The Joint Permit Application, Exhibit E, includes an alternatives analysis explaining why there is no practicable alternative to the site. As explained in Exhibit E, the project is not expected to result in upstream or downstream flooding or erosion.

- C. *Vegetation Report. This report shall consist of a survey of existing vegetative cover, whether it is native or introduced. Measures for enhancement or revegetation with approved plant species will be clearly stated, as well as methods for immediate and longterm stabilization of slopes and control of soil erosion. The revegetation plan shall be prepared by a licensed landscape architect, landscape designer, botanist, or arborist with specific knowledge of native plant species, planting and maintenance methods, survival rates, and their ability to control erosion and sedimentation, in compliance with Chapter 5.600, Erosion Control and Water Quality Standards, of this Code.*

**Response:** The Vegetation Report information required by subsection 4.314.C is provided on the Landscape Plan, Sheet L100 of Exhibit A.

#### **4.315 Development Standards.**

*Permitted uses in the vegetation corridor and slope district are to be developed in compliance with the following development standards unless there is an approved District Plan in accordance with Metro Code Section 3.07.1330.b.4(a) for the site. A District Plan shall be prepared and approved prior to, or in conjunction with, the preparation and approval of a master plan for the eventual development of the specific site. The approval criteria for the District Plan are those of Metro Code Section 3.07.1330.b.3.*

- A. *New Development.*
1. *The applicant shall demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the vegetation corridor and slope than the one proposed.*
  2. *If no such reasonably practicable alternative design or method of development exists, new structures and development shall be limited in scale, as specified in this Section, so that the impacts on the vegetation corridor and slope district are the least necessary and the plans shall include restoration, replacement, or rehabilitation of the vegetation corridor and/or slope associated with the site:*
    - a. *Notwithstanding the provisions of Chapter 6.1300, Type II Variance, of this Code, a maximum of thirty percent (30%) of the total area of the vegetation corridor and slope district on the lot may be used for the development, inclusive of any walkways, driveways, patios, decks, accessory buildings, and similar impervious features.*

**Response:** The applicant proposes to entirely fill the wetland on the-site through a Joint Permit Application submitted to the Department of State Lands and US Army Corps of Engineers. Upon approval of Joint Permit Application, the applicant will be allowed to fill the wetland, which would result in the removal of the associated VECO buffer, effectively removing the buffer from the site. However, because the wetland is currently mapped, the buffer exists until the fill action is complete. As a consequence, a Type III variance is required to allow greater than 30% of the removal of the VECO buffer. It is anticipated that approval of the JPA application will be a condition of approval of the variance and evidence of JPA approval will be required prior to the issuance of final City grading

permits. Compliance with approval criteria for the requested variance is demonstrated in the responses to Chapters 4.300 and 6.1300 of this narrative.

3. *The applicant shall provide mitigation to ensure that impacts to the functions and values of the vegetation corridor and integrity of the slope will be mitigated or restored to the extent practicable.*

**Response:** The applicant is proposing to fill the wetland on-site through a Joint Permit Application (Exhibit E). Once the wetland is filled, the VECO buffer on-site will have no function or value. As part of the Joint Permit Application, the applicant is proposing to pay into the DSL Payment-in-lieu (PIL) fund to mitigate the unavoidable wetland impacts, since no In-Lieu Fee sites or Mitigation Banks currently service the project area. Payments into the PIL fund are used to construct state-run mitigation sites that provide ecological improvements within watersheds where future wetlands impacts are anticipated. The state-run banks are used to generate mitigation credits to offset losses to wetland or waterway functions and are not conducted for profit. As explained in the Joint Permit Application, the mitigation ratio required to account for temporal loss is 1.2:1; therefore, the applicant is proposing to pay into the DSL Payment-in-lieu fund for 0.11 acres of impact. This will ensure the replacement of the function and values of the impacted wetland.

- a. *The existing tree canopy and understory comprised of native plants shall be retained wherever possible outside of the building envelope. A tree preservation and maintenance plan is required to be submitted with the land use application as part of the landscaping plan, or in the case of a single-family dwelling, with the building permit. Only those trees approved for removal by the approval authority may be removed.*

**Response:** No trees or native shrubs are proposed for removal through this application. The proposed development has been designed to preserve the existing trees at the southeast corner of the site. No trees or native shrubs exist within the wetland area on-site or the VECO buffer. As explained in the Wetland Delineation Report, Exhibit D, the VECO buffer area on-site was dominated by the non-native, invasive species Himalayan blackberry (*Rubus armeniacus*) prior to its removal in 2017. The Landscape Plan, Sheets L100 and L110 of Exhibit A, detail plans for tree preservation, protection and maintenance on-site.

- b. *Any disturbed portions of the site shall be restored and enhanced by removing non-native plants and noxious weeds, and restoring the vegetation corridor with native plant species listed on the Metro Native Plant List. Only native grass varieties will be permitted.*

**Response:** All disturbed portions of the site will be used for the proposed gravel storage yard or proposed landscaping, as shown on Sheets C200 and L100 of Exhibit A. The VECO buffer will be removed from the site, as the applicant has proposed to fill the wetland on-site through a Joint Permit Application (Exhibit E); this application requests a Variance for impacts to the vegetation corridor.

- c. *A mitigation and restoration plan shall be submitted with the land use application and shall be implemented prior to issuance of a Certificate of Occupancy, a Certificate of Completion for a subdivision, or the final building inspection, as applicable.*

- i. *Required plants and plant densities. An applicant must meet Mitigation Option 1, 2 or 3.*

*Option 1. Number and type of trees and shrubs that must be planted to qualify as mitigation.*

| <b><i>TREE REPLACEMENT MITIGATION OPTION 1</i></b> |  |
|--|--|
| <b>Size of Tree Removed</b>                        | <b>Number of Trees and Shrubs to Plant</b> |
| 6 to 12" DBH                                       | 1 tree and 1 shrub                         |
| 13 to 18" DBH                                      | 2 trees and 3 shrubs                       |
| 19 to 24" DBH                                      | 3 trees and 6 shrubs                       |
| 25 to 30" DBH                                      | 4 trees and 9 shrubs                       |
| Over 30" DBH                                       | 5 trees and 15 shrubs                      |

**Response:** Option 1 is intended for situations where tree removal is proposed. No tree removal is proposed; therefore, this standard does not apply.

*Option 2. The mitigation is calculated based on the size of the area disturbed within the Vegetation Corridor and Slope District. Native trees and shrubs are required to be planted at a rate of one (1) tree and five (5) shrubs for every one hundred (100) square feet of disturbance area. All fractions are rounded to the nearest whole number. Bare ground must be planted or seeded with native grasses or herbs.*

**Response:** Option 2 requires native tree and shrub planting as mitigation based on the disturbed area with the Vegetation Corridor. However, no native trees or shrubs will be removed through this application. Since the application is already providing sufficient mitigation for wetland impacts through the permit with the Department of State Lands (see Exhibit E), and no trees or shrubs will be removed from the wetland or the VECO buffer on-site; Option 2 was not selected as an appropriate mitigation option for the proposed impacts.

*Option 3. Discretionary Review. This mitigation plan varies the required number and size of trees and shrubs under Option 1 or Option 2.*

(A) *An applicant shall submit the following:*

- (1) *A calculation of the number of trees and shrubs that would be required under Option 1 or Option 2.*

**Response:** Option 1 is intended for situations where tree removal is proposed. No tree removal is proposed; therefore, no mitigation is required under Option 1. Under Option 2, 300 trees and 1,497 shrubs would be required for the 29,922 square foot disturbance area within the Vegetation Corridor and Slope District. Using the City of Troutdale Mitigation Planting Standards listed in TDC 4.315.A.3.C.iv, meeting the mitigation requirements listed under Option 2 would require approximately 52,622 square feet (39 percent) of the 135,031 square foot development site area.

- (2) *The number and size of trees and shrubs that the applicant proposes to plant.*

**Response:** The applicant is proposing mitigation through payment into a DSL in-lieu fund for the proposed wetland impacts; as explained in Exhibit F, this mitigation method will provide greater mitigation results than could be achieved through on-site mitigation. No removal of trees or shrubs is proposed; therefore, no compensatory mitigation planting on-site has not been proposed. The applicant is proposing planting to bring the site into compliance with City of Troutdale landscaping requirements, as shown on Sheet L100.

- (3) *An explanation of why the proposed number and size of trees and shrubs to be planted will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results than the number and size required under Option 1 or Option 2. Such explanation shall be prepared and signed by a qualified, licensed natural resource professional or a licensed landscape architect and shall include discussion of site preparation including soil additives and removal of invasive and noxious vegetation, plant diversity, plant spacing, planting season and immediate post planting care including mulching, irrigation, wildlife protection and weed control.*

**Response:** A Vegetation Corridor Mitigation Memorandum has been included as Exhibit F; this memorandum was prepared by a Senior Environmental Specialist at AKS Engineering and Forestry. This memorandum details why the proposed mitigation through payment into the DSL Payment-in-lieu (PIL) fund will provide greater mitigation results than could be achieved through on-site mitigation:

*“Wetland A is an isolated wetland that has no hydrologic connection to other wetlands or waters and does not provide any locally significant functions or values. Because the project will result in the complete fill of Wetland A, mitigating VECO impacts on site is not a practical alternative. The project site is bound by NW 7<sup>th</sup> street to the south and by industrial development in all remaining directions. The project site is further isolated from wildlife corridors by the Troutdale Airport to the north and Interstate 84 to the south. As a result, the property provides very limited function related to wildlife habitat. Species likely to use the project site include typical urban species such as squirrels, mice, and birds, etc. Providing VECO mitigation on site would require that native trees and shrubs be planted around the perimeter of the property, further decreasing the functional capacity of these plantings in terms of wildlife habitat.*

*Mitigating wetland and VECO impacts through payment into the DSL PIL fund will allow a larger, more intact wildlife corridor to be constructed within the surrounding watershed. The wetlands and associated buffer at the state-run mitigation site will provide functions and values at a higher level than the wetland and VECO to be impacted. Once constructed, the state-run mitigation bank will provide significant benefits to the community including:*

- Enhanced air and water quality treatment for non-point source pollution.*
- Flood control and water quality treatment through an interconnected system of wetland and riparian areas.*
- A diverse array of native plants and animals and significant connected system of wildlife habitats.*
- Educational and recreational opportunities.*

*Because the on-site isolated wetland and associated VECO do not currently provide these functions and values to the surrounding community, payment into the PIL fund will more than replace the wetland and VECO functions and values lost at the project site.*

*Because the project site is located within a densely developed industrial area within proximity to the Troutdale Airport and Interstate 84, mitigating VECO impacts on site is not practical. By contributing funds for a new state-run mitigation bank, the intent of the VECO mitigation standards is met. The state-run mitigation bank will be an approved facility that is sited in an ecologically suitable location to prioritize locally important functions and values.”*

(4) *A monitoring and reporting plan for the mitigation site.*

**Response:** Once the Joint Permit Application is approved, a copy of the permit will be provided to the City’s Planning Department upon receipt.

(B) *Approval Criteria for Option 3. A request to vary the number and size of trees and shrubs to be planted may be approved if the applicant demonstrates that the proposed planting will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results than the number and size required under Option 1 or Option 2.*

**Response:** The Vegetation Corridor Mitigation Memorandum, included as Exhibit F explains why payment into the DSL PIL fund will provide superior mitigation results than could be achieved through on-site mitigation:

*“Wetland A is an isolated wetland that has no hydrologic connection to other wetlands or waters and does not provide any locally significant functions or values. Because the project will result in the complete fill of Wetland A, mitigating VECO impacts on site is not a practical alternative. The project site is bound by NW 7<sup>th</sup> street to the south and by industrial development in all remaining directions. The project site is further isolated from wildlife corridors by the Troutdale Airport to the north and Interstate 84 to the south. As a result, the property provides very limited function related to wildlife habitat. Species likely to use the project site include typical urban species such as squirrels, mice, and birds, etc. Providing VECO mitigation on site would require that native trees and shrubs be planted around the perimeter of the property, further decreasing the functional capacity of these plantings in terms of wildlife habitat.*

*Mitigating wetland and VECO impacts through payment into the DSL PIL fund will allow a larger, more intact wildlife corridor to be constructed within the surrounding watershed. The wetlands and associated buffer at the state-run mitigation site will provide functions and values at a higher level than the wetland and VECO to be impacted. Once constructed, the state-run mitigation bank will provide significant benefits to the community including:*

- *Enhanced air and water quality treatment for non-point source pollution.*
- *Flood control and water quality treatment through an interconnected system of wetland and riparian areas.*
- *A diverse array of native plants and animals and significant connected system of wildlife habitats.*
- *Educational and recreational opportunities.*

*Because the on-site isolated wetland and associated VECO do not currently provide these functions and values to the surrounding community, payment into the PIL fund will more than replace the wetland and VECO functions and values lost at the project site.*

*Because the project site is located within a densely developed industrial area within proximity to the Troutdale Airport and Interstate 84, mitigating VECO impacts on site is not practical. By contributing funds for a new state-run mitigation bank, the intent of the VECO mitigation standards is met. The state-run mitigation bank will be an approved facility that is sited in an ecologically suitable location to prioritize locally important functions and values.”*

- ii. *On-site mitigation area. All vegetation planted on the applicant’s site must be within the Vegetation Corridor and Slope District or in an area contiguous to the Vegetation Corridor and Slope District; provided, however, that if the vegetation is planted outside of the Vegetation Corridor and Slope District of the site, then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant.*

**Response:** On-site mitigation is not proposed. The wetland on-site is an isolated feature on-site, therefore the VECO buffer is not connected to any other areas within a Vegetation Corridor and Slope District. The applicant is proposing to fill the wetland on-site through a Joint Permit to the Department of State Lands and Army Corps of Engineers (Exhibit E). Once the wetland is filled, a VECO Corridor buffer will no longer serve any functions or provide any ecological value. Providing VECO mitigation on site would require that native trees and shrubs be planted around the perimeter of the property; these plantings would have low functional capacity in terms of wildlife habitat, since the project site is bound by NW 7<sup>th</sup> Street to the south and by industrial development in all remaining directions. Therefore, mitigation is not proposed on-site and is instead proposed through payment into the DSL PIL fund which will provide greater mitigation value, as detailed in Exhibit F.

- iii. *Off-site mitigation area. Some or all of the vegetation may be planted off-site subject to the following requirements.*
  - a) *The off-site property must lie within the City limits of Troutdale or the Troutdale Urban Planning Area, except for mitigation as a result of development on property owned by the Port of Portland within 10,000 feet of an Aircraft Operating Area, as defined by the FAA, in which case the Port may be permitted to mitigate in the U.S. Forest Service Sandy River Delta Recreation Area, provided that the Port can demonstrate that it is not practicable for the mitigation to occur within the City limits of Troutdale or the Troutdale Urban Planning Area and has entered into a written agreement with the U.S. Forest Service which permits such plantings.*

**Response:** The applicant is proposing mitigation as part of the Joint Permit Application for wetland fill (Exhibit E). There are currently no DSL wetland mitigation banks or In-Lieu-Fee projects that serve the location of this project; therefore, the applicant will in to pay into the DSL Payment-in-lieu fund for the proposed wetland impacts. Payments into the PIL fund are used to construct state-run mitigation sites that provide ecological improvements within watersheds where future wetlands impacts are anticipated. The state-run banks are used to generate



mitigation credits to offset losses to wetland or waterway functions and are not conducted for profit. At this time, DSL has no mitigation projects underway in the project area and is not aware of any other mitigation banks in progress. DSL rules allow the Payment-in-lieu funds in to be spent in other basins if they cannot find suitable mitigation projects within two years in the watershed where the funds originated.

b) *The applicant shall submit a map and accompanying narrative that details the following:*

(i) *The number of trees and shrubs that can be planted on-site;*

**Response:** The applicant is not proposing planting trees and shrubs as mitigation; no trees or shrubs will be removed as part of the proposed wetland fill. The applicant is paying into the DSL Payment-in-lieu fund for proposed wetland impacts; as explained in Exhibit F, this form of mitigation is the most appropriate for the proposed impacts.

(ii) *The on-site location where those trees and shrubs can be planted;*

**Response:** Mitigation plantings would need to be located around the perimeter of the property to render the site usable; as explained in Exhibit F, plantings at the site's perimeter would have low functional value in terms of wildlife habitat, due to lack of connectivity with any other wildlife corridors. However, the applicant is not proposing planting trees and shrubs as mitigation; no trees or shrubs will be removed as part of the proposed wetland fill. The applicant is paying into the DSL Payment-in-lieu fund for proposed wetland impacts; as explained in Exhibit F, this form of mitigation is the most appropriate for the proposed impacts.

(iii) *An explanation of why it is not practicable for mitigation to occur on-site;*

**Response:** The wetland and buffer occupy the center of the proposed gravel storage yard. As explained in the Joint Permit Application, Exhibit E, it is necessary to fill the entire wetland to render the site usable for the development. Providing VECO mitigation on site would therefore require that native trees and shrubs be planted around the perimeter of the property, which would provide low functional capacity in terms of wildlife habitat. The project site is bound by NW 7th Street to the south and by industrial development in all remaining directions. The project site is further isolated from wildlife corridors by the Troutdale Airport to the north and Interstate 84 to the south. As a result, the property provides very limited function related to wildlife habitat. Because the project site is located within a densely developed industrial area within proximity to the Troutdale Airport and Interstate 84, mitigating VECO impacts on site would provide minimal ecological value. Furthermore, to meet the City of Troutdale mitigation planting requirement (Option 2, listed in TDC 4.315.A.3), 300 trees and 1,497 shrubs would be required, which would require approximately 52,622 square feet (39 percent) of the 135,031 square foot development site area. This would result in a significant loss in available storage space and would render the yard essentially useless to potential tenants. Therefore, because on-site mitigation would provide low mitigation value and it would severely limit development opportunity on the site, it is not practicable for mitigation to occur on-site.

(iv) *The proposed location for off-site mitigation; and*

**Response:** The applicant is proposing mitigation as part of the Joint Permit Application for wetland fill (Exhibit E). There are currently no DSL wetland mitigation banks or In-Lieu-Fee projects that serve the location of this project; therefore, the applicant will in to pay into the DSL Payment-in-lieu fund for the proposed wetland impacts. At this time, DSL has no mitigation projects underway in the project area. DSL rules allow the Payment-in-lieu funds in to be spent in other basins if they cannot find suitable mitigation projects within two years in the watershed where the funds originated.

- (v) *Documentation that the applicant can carry out and ensure the success of the mitigation, including documentation that the applicant possesses legal authority to conduct and maintain the mitigation, and, if the mitigation is not within the Vegetation Corridor and Slope District, documentation that the mitigation site will be protected after the monitoring period expires, such as through the use of a restrictive covenant.*

**Response:** A copy of the Joint Permit for the proposed wetland fill and associated mitigation will be provided to the City's Planning Department upon receipt.

iv. *Mitigation Planting Standards...*

- a) *All trees, shrubs, groundcovers, and grasses shall be from the Metro Native Plant List.*
- b) *Conifers shall be replaced with conifers.*
- c) *Plant size. Replacement trees must be at least one-half inch in caliper, measured at six (6) inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one (1) gallon size. Shrubs must be in at least a one (1) gallon container or the equivalent in ball and burlap and must be at least twelve (12) inches in height.*
- d) *Plant spacing. Trees shall be planted between eight (8) and twelve (12) feet on center and shrubs shall be planted between four (4) and five (5) feet on center, or clustered in single species groups of no more than four (4) plants, with each cluster planted between eight (8) and ten (10) feet on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing measurements.*
- e) *Plant diversity. Shrubs must consist of at least two (2) different species. If ten (10) trees or more are planted, then no more than fifty percent (50%) of the trees may be of the same genus.*
- f) *Invasive vegetation. Invasive non-native or noxious vegetation must be removed within the mitigation area prior to planting.*

- g) *Tree and shrub survival. A minimum of eighty percent (80%) of the trees and shrubs planted must remain alive on the fifth anniversary of the date that the mitigation planting is completed. Plants that die within five (5) years of the date of planting must be replaced in kind and of sufficient quantity to meet this minimum eighty percent (80%) coverage standard.*
- h) *Monitoring and reporting. Monitoring of the mitigation plantings is the ongoing responsibility of the property owner. Monitoring shall continue during the first five (5) years of the date of planting. Monitoring shall consist of the submission of color photographs of the mitigation plantings immediately following completion of the initial planting and then annually between September 1st and 21st for the next five (5) years. Photographs shall be dated and a north arrow included on the photographs. The photographs shall be submitted to the Community Development Department with a cover letter that includes the name and contact information for the current property owner, the land use file number, and the address of the property.*
- i) *To enhance survival of tree replacement and vegetation plantings, the following practices are recommended:*
  - (i) *Planting season. Plant bare root trees between December 1st and February 28th, and potted plants between October 15th and April 30th.*
  - (ii) *Wildlife protection. Use plant sleeves or fencing to protect trees and shrubs against wildlife browsing and resulting damage to plants.*
  - (iii) *Irrigation. Water new plantings one (1) inch per week between June 15th to October 15th, for three (3) years following planting.*
  - (iv) *Weed control. Remove or control non-native or noxious vegetation throughout maintenance period.*
  - (v) *Mulching. Mulch new plantings a minimum of three (3) inches in depth and eighteen (18) inches in diameter to retain moisture and discourage weed growth.*

**Response:** The applicant is not proposing mitigation planting. No trees or shrub removal is necessary for the proposed wetland fill or the proposed development. As explained in Exhibit F, payment into the DSL Payment in-lieu fund is the most appropriate option for the proposed wetland impacts, and it will provide greater mitigation results than mitigation planting on-site.

- d. *The portion of the vegetation corridor and slope district that is not disturbed with the use shall be conserved and maintained as open space. This may occur through private ownership; private conditions, covenants, and restrictions; conservation easements enforceable by the City, other public or private nonprofit agency, or*

*where approved by the City Council; dedication to the City; or donation to other appropriate public or private nonprofit agency*

**Response:** This application proposes to fill the entire wetland on-site. Once the wetland is filled, the VECO buffer will no longer apply on-site. Approval of the requested variance will effectively remove the VECO buffer from the site. Therefore, no portion of the vegetation corridor will remain undisturbed. This standard does not apply.

4. *The use satisfies all applicable standards of Chapters 4.500, Flood Management Area; 5.600, Erosion Control and Water Quality Standards; and 5.700, Stormwater Management, of this Code.*

**Response:** Compliance with the applicable standards of Chapters 5.600 and 5.700 are demonstrated in the corresponding sections of this narrative. Chapter 4.500 does not apply to this project site.

5. *All excavation over three feet in depth shall require submission of an engineering report addressing the hydrology, geology, and soils of the site as specified in this Chapter. The siting, engineering, erosion control, water quality, and enhancement or revegetation of the site shall comply with the standards of this Chapter. The applicant's engineering plans shall certify that runoff from the site will not increase above pre-development quantity and rate, and that visible and measurable erosion is prevented.*

**Response:** This application does not propose any excavation over three feet in depth; therefore, this standard does not apply. The proposed development will be 100 percent pervious, and all runoff will be detained and infiltrated onsite, so no net increase above pre-development quantity and rate will occur.

- B. *Addition or alteration of development in the vegetation corridor and on slopes of twenty five percent (25%) and greater may be allowed provided that it meets the standards of Subsections (A)(1) – (3) of this Section, as applicable, and the following:*

**Response:** This application does not propose additions or alterations of existing development within the vegetation corridor. This standard does not apply.

- C. *Construction of public utilities and public streets not included in the review of the tentative plat shall be processed as a Type II site and design review land use application and shall be subject to the following approval criteria, provided that it meets the standards of Subsections (A)(1) – (3) of this Section, as applicable, and the following:*

**Response:** No construction of public utilities or public streets is required or proposed with this application.

- D. *Approval Standards for Walkways and Bike Paths and other Low-Impact Outdoor Recreation Facilities.*

**Response:** No walkways or bike paths are proposed with this application.

- E. *Prescribed Conditions for the Rehabilitation or Replacement of Pre-Existing Structures*

**Response:** No pre-existing structures are proposed to be rehabilitated or replaced with this application.

#### **4.316 Width of Vegetation Corridor**

**Response:** Per the Table in Section 4.316, a 50-foot vegetation corridor is required around the existing wetland on-site. This vegetation corridor is proposed for removal through a variance in compliance with Chapter 6.1300.

#### **4.318 Delineation of Habitat Conservation Areas.**

**Response:** Metro Title 13 mapping does not show a Habitat Conservation Area on-site.

## **CHAPTER 5 – MISCELLANEOUS USES, STANDARDS AND EXCEPTIONS**

### **5.600 EROSION CONTROL AND WATER QUALITY STANDARDS**

#### **5.620 Applicability**

*This Section is applicable to ground disturbing activities associated with development, subject to the limitations and thresholds set forth in the reference standards specified in Section 5.630.*

**Response:** The proposed storage yard development will include ground disturbance. Therefore, erosion control and water quality standards apply.

#### **5.630 Reference Standards.**

*The erosion control standards and requirements set forth in the most current edition of Chapter 12.09 of the Troutdale Municipal Code and the most current edition of the Construction Standards for Public Works Facilities are hereby incorporated by reference.*

**Response:** Erosion control will be consistent with Chapter 12.09 of the Troutdale Municipal Code and Public Works standards. See Sheet C300 for details.

### **5.700 STORMWATER MANAGEMENT**

#### **5.730 Applicability.**

*No land use action shall be approved which does not make adequate provisions for stormwater or floodwater runoff. The stormwater drainage system shall be separate and independent of any sanitary sewer system. Water quality treatment for stormwater is required as indicated in the City's Construction Standards for Public Works Facilities.*

**Response:** The applicant is not proposing any new stormwater utility services to the site, nor any modifications to the site's existing connection to the public storm drainage system. As stated in the Pre-Application Conference Summary, Exhibit B, the applicant is not proposing any new impervious area; therefore, stormwater quality retrofits or upgrades are not required under Troutdale Public Works Standards. This section does not apply.

### **5.1000 PUBLIC IMPROVEMENTS**

#### **5.1020 Applicability.**

*These standards apply to any land division or development requiring public improvements and any other development requiring public improvements valued at \$25,000 or more.*

**Response:** No public improvements are required or proposed with this application. All public improvements have been constructed for the existing development on site. No changes are proposed to existing public improvements. The proposed gravel storage yard will not result in additional employees or trips to the site; therefore, no additional impacts are anticipated that would require public improvements. Section 5.100 does not apply to this proposal.

## **CHAPTER 6 – APPLICATIONS**

### **6.1300 VARIANCE**

#### **6.1305 General Provisions.**

- A. *The variance procedures are intended to allow modifications of specific standards contained within this Code when authorized as provided below.*

**Response:** This application requests approval of a variance to the standard listed in TDC 4.315.A.2.a.; the proposed variance complies with this section and the provisions of Chapter 4.3000.

- C. *Separate variance provisions apply to uses within the Vegetation Corridor and Slope District and the Flood Management Area.*

**Response:** Compliance with the provisions of Chapter 4.300 Vegetation Corridor and Slope District is demonstrated in the corresponding section of this narrative.

#### **6.1310 Regulations Which May Not Be Varied.**

- A. *No variance may be granted which will permit a use not permitted in the applicable zoning district.*
- B. *No variance may be granted which will increase the maximum residential density or decrease the minimum residential density allowed in the applicable zoning district.*
- C. *No variance may be granted to the provisions of Chapter 5.300, Nonconforming Uses and Developments of this Code.*

**Response:** No variances are requested to the regulations listed in Section 6.1310.

#### **6.1315 Type I Variance.**

*The Director may grant a variance under the Type I procedure if the request involves the expansion or reduction of a quantifiable provision in this Code by no more than ten percent (10%), and the following criteria are met:*

**Response:** Per 6.1325, a Type III Variance requires compliance with the approval criteria of this section. Compliance is demonstrated below.

- A. *Special circumstances or conditions including, but not limited to, lot size, lot shape, topography, or size or shape of building, apply to the property, development, or to the intended use and are not typical of the general conditions in the surrounding area; and*

**Response:** The wetland is an isolated feature which lies completely within the site boundaries and has no hydrologic connection to other wetlands or waters. in Table B of this narrative and in the Joint Permit Application (Exhibit E), the existing wetland on-site has low or low-moderate Function and Value Assessment scores for all the categories assessed. The wetland and VECO buffer occupy the center of the proposed gravel storage yard area.

Maintaining the wetland and buffer area in the center of the proposed storage area would preclude the majority of usable space from development. The site conditions requiring this variance are unique in that the affected wetland is an isolated, low-function, low-value wetland that occupies a central area of the site, rendering the site unusable if not impacted. Furthermore, upon approval and implementation of the wetland fill permit through DSL, the VECO will no longer apply to the site.

- B. *The variance authorized will not be injurious to adjacent properties or the surrounding neighborhood or otherwise detrimental to the public welfare; and*

**Response:** As explained in Table B of this narrative and in the Joint Permit Application (Exhibit E), the existing wetland on-site has low or low-moderate Function and Value Assessment scores for all the categories assessed: Hydrologic Function, Water Quality Support, Fish Habitat, Aquatic Habitat and Ecosystem Support. Additionally, the wetland is an isolated feature that has no hydrologic connection to other wetlands or waters. As explained in Exhibit E, wetland fill is not expected to result in upstream or downstream flooding or erosion and will not result in adverse impacts to any rare, threatened, or endangered species. Therefore, removal of this wetland and wetland buffer is not expected to create negative ecological impacts for the surrounding neighborhood.

- C. *The variance authorized will be consistent with the general purpose and intent of the provision from which a variance is sought; and*

**Response:** The stated purpose of the Vegetation Corridor and Slope District is listed below with responses demonstrating how the variance request is consistent with each provision.

*4.310 Purpose. The purpose of these standards is to promote the public health, safety, and general welfare. Provisions under this Chapter are designed to:*

- A. *Restrict or prohibit uses, activities, or development which is damage-prone or damage inducing to the land or water quality.*

**Response:** As explained in Table B of this narrative and in the Joint Permit Application (Exhibit E), the existing wetland on-site is rated as Low Function and Low-Moderate value for Water Quality Support: "The wetland would not be effective at maintaining or reducing summertime water temperatures, as the wetland is dry during the summertime and the groundwater table is well below the ground surface. Further, the wetland lacks vegetative complexity (no woody species) and microtopography. Because the wetland is in a highly developed industrial area, there is some value in its ability to improve water quality, albeit only locally due to the lack of an outlet/surface water connection to any non-wetland waterway." Due to the lack of hydrologic connection to other wetlands or waters, the proposed wetland fill is not expected to negatively impact water quality.

- B. *Require uses vulnerable to landslides, including public facilities which serve such uses, to be protected at the time of initial construction.*

**Response:** The proposed gravel storage yard is not a use vulnerable to landslides. As explained in the Joint Permit Application (Exhibit E), the proposed wetland fill is not expected to result in upstream or downstream flooding or erosion. The DOGAMI Statewide Landslide Information Layer for Oregon does not map the development area as susceptible to shallow or deep landslides.

- C. *Maintain land and water quality by minimizing erosion and sedimentation, and by restricting or prohibiting development, excavation, and vegetation removal on vegetation corridors and slopes associated with primary and secondary protected water features, and on slopes of twenty-five percent (25%) or greater not directly associated with a protected water feature.*

**Response:** As explained in the Joint Permit Application (Exhibit E), the proposed wetland fill is not expected to result in upstream or downstream flooding or erosion. A Grading and erosion control plan included as Exhibit A Sheet C300 demonstrates that Best Management Practices will be employed to minimize erosion. There are no slopes greater than 25 percent on-site. As explained in the response to 4.310.A above, due to the lack of hydrologic connection to other wetlands or waters, the proposed wetland fill is not expected to negatively impact water quality.

- D. *To comply with the provisions of Title 3 of the Metro Urban Growth Management Functional Plan and Statewide Planning Goal 6, Air, Water, and Land Resources Quality, and Statewide Planning Goal 7, Areas Subject to Natural Disasters and Hazards.*

**Response:** This proposal complies with TDC Chapter 4.300 VECO requirements, including VECO Variance provisions. The proposal is therefore consistent with the State and Regional policies that Chapter 4.300 was designed to be in compliance with. As explained in the Joint Permit Application (Exhibit E), the wetland proposed for fill provides little value in terms of water quality, and the project is not expected to result in upstream or downstream flooding or erosion.

- E. *Substantially comply with the provisions of Title 13 of the Metro Urban Growth Management Functional Plan to protect regionally significant fish and wildlife habitat in compliance with Statewide Planning Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources, as it pertains to natural resources.*

**Response:** This proposal complies with TDC Chapter 4.300 VECO requirements, including VECO Variance provisions. The proposal is therefore consistent with the State and Regional policies that Chapter 4.300 was designed to be in compliance with. As explained in the Joint Permit Application (Exhibit E), this project will not result in adverse impacts to any rare, threatened, or endangered species, and the wetland proposed for fill has low or low-moderate function and value as a natural resource.

- D. *The variance is the minimum necessary to relieve a practical difficulty with full compliance and to avoid or minimize the resulting hardship.*

**Response:** The requested variance for VECO standards is the minimum necessary for the proposed development; the gravel storage yard requires fill of the entire wetland on-site and removal of the VECO buffer in order to provide adequate equipment storage space and maneuverability for emergency vehicles. Sheet A1 of Attachment 1 in the Joint Permit Application (Exhibit E of this application package), shows the area that the existing wetland and required 50-foot buffer occupy on site. The wetland and buffer occupy the center of the proposed gravel storage yard. Maintaining the wetland and buffer area in the center of the proposed storage area would preclude the majority of usable space from development. Additionally, the proposed fire access runs through the existing wetland and buffer. If the wetland and VECO buffer were to be maintained, the proposed fire access would need to be shifted west of the VECO area; however, if the fire access was shifted west, emergency vehicle access would need to be provided to the northeast and southwest corners of the gravel yard. If access routes were constructed to provide access to these locations, a turnaround (i.e., cul-de-sac or hammerhead) would be required to ensure that emergency access vehicles could safely leave the area, as the runs would be longer than 150 feet. Extending



the circulation routes to these two corners and constructing the required turnarounds would result in such a significant loss in available storage space and such an unworkable yard configuration that it would render the yard useless to potential tenants. Further, the available space would consist of more narrow and fragmented spaces that would not be suitable for industrial tenants to store their materials and equipment. Therefore, maintaining the wetland and buffer is incompatible with development of this site. Since the wetland and buffer are central to the site, it is necessary to fill the wetland, thereby removing the VECO area, to render the eastern portion of the development site usable.

#### **6.1325 Type III Variance.**

*The Planning Commission may grant a variance under the Type III procedure if the request involves the expansion or reduction of a quantifiable provision in this Code by more than thirty percent (30%), or if the request is referred to the Planning Commission in accordance with Section 6.1335 of this Chapter. The variance shall be granted only if the Planning Commission determines that the criteria in Section 6.1315 of this Chapter are met.*

**Response:** This application requires fill the existing wetland on-site. A Joint Permit application for wetland fill has been submitted to the U.S. Army Corps of Engineers and Oregon Department of State Lands. Upon approval and implementation of the wetland fill permit through DSL, the VECO will no longer apply to the site. Therefore, a Type III Variance is required. Compliance with 6.1315 is demonstrated in the responses in the corresponding section of this narrative.

### **6.900 SITE DEVELOPMENT REVIEW**

#### **6.910 Applicability and Exemptions.**

*Site development review approval is required for new development, change of use resulting in increased vehicle traffic or requiring an increase in minimum parking pursuant to Chapter 9, Building Expansions and to expand a nonconforming use or development. Except as specified by a condition of approval on a prior City decision, or as required for uses subject to conditional use permit approval, site development review is not required for the following:*

**Response:** This proposal includes development of the site as a gravel storage yard for equipment and materials; therefore, site development review is required.

#### **6.915 Review Procedures.**

*Site development review shall be conducted using a Type I or Type II procedure to be determined as follows:*

- A. *A Type I application shall be used to review all of the following:*
  - 1. *Change of occupancy from one type of land use to a different type of land use resulting in an increase in vehicle traffic or demand for parking.*
  - 2. *Commercial, industrial, institutional, or multifamily building addition or remodel that adds less than twenty-five percent (25%) floor area.*
  - 3. *Site improvements, such as modifications to a landscaped area or parking area.*
  - 4. *New accessory dwelling units that are considered interior conversions of existing space or are attached to the primary dwelling as a physical addition, in accordance with Section 5.900 of this Code.*

**Response:** This proposal will add an equipment and material storage area to an existing development. The proposal is classified as site improvements. Therefore, per 6.915.A.3, the proposal will be reviewed as a Type I procedure. However, this Site Development Review application has been submitted along with a Type III Variance application for wetland fill associated with the proposed site improvements.

#### **6.920 Approval Criteria.**

*In order to approve a site development review application, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that the proposal is consistent with the applicable approval criteria.*

- A. *An application for a Type I site development review shall be approved if the proposal meets all of the following criteria. The City decision-making body may, in approving the application, impose reasonable conditions of approval, consistent with the applicable criteria.*
1. *The application complies with all of the applicable provisions of the underlying zone and overlay zone(s), including but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards, or a variance or adjustment is granted.*

**Response:** As demonstrated on the Site Plan Sheet C200 and in this narrative, the proposed development will comply with all applicable provisions of the underlying zone (GI). However, a variance is requested to the VECO overlay standard of Section 4.315.A.2.a.; compliance with applicable criteria for this request is demonstrated in Sections 4.300 and 6.1300 of this narrative.

2. *The proposal includes required upgrades, if any, to existing development that does not comply with the applicable land use district standards, pursuant to Section 5.300 Nonconforming Uses.*

**Response:** There is no nonconforming use on site. No changes to the existing use on the western half of the site are proposed. No nonconforming upgrades are required.

3. *The proposal complies with all of the applicable site design and development standards of this Code, such as landscaping and parking.*

**Response:** As demonstrated on the plan set and, in this narrative, the proposed development will comply with all applicable site design and development standards of this code, including landscaping and parking.

4. *The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable.*

**Response:** This standard is not applicable. There are no applicable existing conditions of approval for the subject site.

#### **6.925 Maintenance.**

*All approved on-site improvements shall be the ongoing responsibility of the property owner or occupant. The owner, occupant, or agent shall be jointly and severally responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat, and orderly appearance, and shall be kept free of refuse and debris. All on-site improvements shall be controlled by maintaining, pruning, trimming, or otherwise so that:*

- A. *It will not interfere with the maintenance or repair of any public facility;*
- B. *It will not restrict pedestrian or vehicular access; and*
- C. *It will not constitute a traffic hazard because of reduced visibility.*

**Response:** All on-site improvements will be maintained as required by the property owner of the site. On-site improvements will be maintained so that they do not interfere with a public facility, restrict pedestrian or vehicular access, or cause a traffic hazard.

## **CHAPTER 8 – SITE ORIENTATION AND DESIGN STANDARDS**

### **8.000 SITE AND DESIGN STANDARDS**

#### **8.020 Applicability and Exemptions.**

*Site development review approval is required for new development, building expansions, expansion of a nonconforming use or development, and changing of use resulting in increased vehicle traffic or requiring an increase in minimum parking pursuant to Chapter 9. Except as specified by a condition of approval on a prior City decision, or as required for uses subject to conditional use permit approval, site development review is not required for the following:*

**Response:** The proposal includes new development of a gravel equipment and material storage yard. None of the exemptions in this section apply. Therefore, site development review is required.

#### **8.030 Pedestrian Walkways.**

*In addition to the standards above, all industrial parks, commercial developments, and community service uses shall meet the following requirements for pedestrian walkways:*

**Response:** The proposed storage yard is not an industrial park, commercial development or community service use. This standard is not applicable.

#### **8.040 Transit Facility Design.**

*Any Type II land divisions where further divisions are possible, and all Type III land divisions, multiple-family developments, community services uses, and commercial or industrial uses located on an existing or future transit route shall meet the requirements of TriMet for transit facilities. Applicants shall consult with TriMet to determine necessary transit facility improvements in conjunction with the proposed development. Proposals shall be consistent with the road crossing improvements that are identified in the City Transportation System Plan on streets with existing or planned transit service.*

#### **8.045 Additional Transit Related Design Standards.**

*All commercial and community service development, and any industrial development designed to accommodate fifty (50) or more employees and located on parcels within six hundred (600) feet of existing or planned transit routes shall meet the following requirements:*

**Response:** The subject site is not located on, or within 600 feet of, an existing or planned transit route. Standards 8.040 and 8.045 do not apply.

## **CHAPTER 9 – OFF-STREET PARKING AND LOADING**

### **9.005 Off-Street Parking Required.**

*Off-street parking and loading space shall be provided for all developments. For purposes of this Chapter, in computing the total number of required offstreet parking spaces, if the total contains a fraction, then the number shall be rounded up to the next higher whole number. The provision for, and maintenance of, off-street parking and loading facilities shall*

*be a continuing obligation of the property owner. No building permit, or any other required permit for a structure or use under this or any other applicable rule, ordinance, or regulation, shall be issued with respect to off- street parking and loading, or land served by such facilities, until satisfactory evidence is presented that the property is, and will remain, available for the designated use as a parking or loading facility.*

**Response:** The existing use on the western portion of the site includes a parking area compliant with the provision of Chapter 9. No changes to the existing parking area are proposed and no new parking is required for the proposed gravel storage yard.

#### **9.025 Industrial Off-Street Parking Space Requirements.**

*The minimum and maximum off-street parking space requirements are as follows:*

| <i>Type of Use</i>  | <i>Minimum</i>                            | <i>Maximum</i>                               |
|---|---|--|
| Storage, warehouse, or manufacturing establishment; air, rail, or trucking freight terminal | 1 space per employee on the largest shift | 1.5 spaces per employee on the largest shift |

**Response:** PIR Dunbar, LLC has 50 employees on the largest shift and 51 existing off-street parking spaces. This equals 1.02 parking spaces per employee and meets the requirement. No changes are proposed to the existing parking area. There are no additional employees associated with the proposed storage yard, therefore no additional parking is required.

#### **9.045 Landscaping and Screening.**

- A. *Except for a residential development which has landscaped yards, parking areas containing more than twenty (20) vehicle spaces shall include landscaping to cover not less than ten percent (10%) of the area devoted to parking facilities. The landscaping shall be uniformly distributed throughout the parking area and may consist of trees, shrubs, or groundcover.*

**Response:** No changes are proposed to the existing parking area and no new parking is required with this application. Therefore, this standard does not apply.

- B. *Parking areas shall be divided into bays of not more than twenty (20) parking spaces in parking areas with twenty (20) or more spaces. Between, and at the end of each parking bay, there shall be planters which have a minimum width of five (5) feet and be at least seventeen (17) feet in length. Each planter shall contain one major structural tree and groundcover which has been deemed appropriate by the Director. Truck parking and loading areas are exempt from this requirement.*

**Response:** There is no additional parking proposed with this application. Therefore, this standard does not apply.

- C. *Parking area setbacks shall be landscaped with major trees, shrubs, and groundcover as specified in Chapter 11, Landscaping and Screening, of this Code.*

**Response:** There is no additional parking proposed with this application. Therefore, this standard does not apply.

- D. *Wheel stops, bumper guards, or other methods to protect landscaped areas shall be utilized. No vehicles may project over a property line. No vehicle shall overhang a public right-of-way, sidewalk, or landscaped area unless adequate area is provided for safe pedestrian circulation.*

**Response:** There is no additional parking proposed with this application. Therefore, this standard does not apply.

- E. *Fences, walls, or hedges shall not be placed within front or street side setback areas except at the street side edge of parking lots when allowed within setbacks.*

**Response:** Fences, walls and hedges are not proposed within the front or street side setback areas on the site. No changes are proposed to the existing fencing around the site.

- F. *Where parking adjoins a residential zoning district, there shall be a sight-obscuring screen which is at least eighty percent (80%) opaque when viewed horizontally from between two (2) and eight (8) feet above average ground level. The screening shall be composed of materials which are an adequate size so as to achieve the required degree of screening within three (3) years after installation.*

**Response:** There is no additional parking proposed with this application. Therefore, this standard does not apply.

#### **9.050 Paving.**

- A. *Parking areas, driveways, aisles, and turnarounds shall be paved with concrete, asphalt, or comparable impervious surfacing. Porous concrete, grasscrete, or comparable porous paving surfacing may be used in place of impervious surfacing to reduce stormwater runoff, when approved by the Director. Gravel and similar erodible surfaces are not acceptable.*

**Response:** No changes are proposed to the existing asphalt parking areas, driveways, aisles, and turnarounds within the parking area. The proposed use is a gravel storage yard for equipment and materials.

To ensure safe fire truck circulation, a fire truck lane will be demarcated through the gravel yard using Survey Whiskers (see Sheet C200 for detail).

- B. *Approaches shall be paved with concrete surfacing constructed to City standards. If a street is not paved, the approach may be maintained to the same standard as the street until the street is paved.*

**Response:** The existing driveway approach is paved; no changes are proposed.

- C. *Temporary overflow parking in conjunction with community events, special events, events of citywide interest, or sporting events, is allowed on an unpaved parking area on a parcel of at least one-half acre in size, provided such parking does not occur within the Vegetation Corridor and Slope District. If a fee is charged for parking, it shall not be considered a commercial parking lot for purposes of zoning compliance.*

**Response:** Temporary overflow parking is not proposed.

#### **9.055 Drainage.**

*Parking areas, aisles, and turnarounds shall have provisions made for the on-site collection of drainage waters to eliminate sheet flow of such waters onto sidewalks, public right-of-ways, and abutting private property*

**Response:** There are no new parking areas, aisles, and turnarounds. Therefore, this standard does not apply.

#### **9.060 Lighting.**

*Artificial lighting shall be provided in all required off-street parking areas. Lighting shall be deflected so as not to shine directly into adjoining dwellings or other types of living units and so as not to create a hazard to the public use of a street. Lighting shall be provided in a bicycle parking area so that all facilities are thoroughly illuminated and visible from adjacent sidewalks or motor vehicle parking lots during all hours of use. Lighting fixtures shall also comply with the requirements of Troutdale Municipal Code, Chapter 8.26.*

**Response:** No changes will be made to existing lighting in the off-street parking areas. Lighting is not required for the proposed storage area.

#### **9.070 Driveways.**

- A. *A driveway to an off-street parking area shall be improved from the public roadway to the parking area a minimum width of twenty (20) feet for a two-way drive or twelve (12) feet for a one-way drive, but in either case not less than the full width of the approach for the first twenty (20) feet of the driveway. The improvement shall be constructed to the standards for private drives.*

**Response:** As shown on Sheet C200, the existing paved driveway into the site from NW Dunbar Ave is 20 feet wide. The driveway has been designed to meet the City's commercial driveway approach specifications. The proposed gravel storage yard will take access from the existing driveway; no changes are proposed to the existing driveway and no new driveway is proposed.

- B. *A driveway for a single-family or two-family dwelling shall have a minimum width of ten (10) feet.*

**Response:** Dwellings are not proposed; therefore, this standard is not applicable.

- C. *Driveways, aisles, turnaround areas, and ramps shall have a minimum vertical clearance of twelve (12) feet for their entire length and width, but such clearance may be reduced in parking structures.*

**Response:** There is no vertical obstruction over the existing driveway from NW Dunbar Ave; the driveway has a vertical clearance of over 12 feet for its entire length and width.

- D. *Parking lots more than three (3) acres in size intended for use by the general public shall provide street-like features along driveways, including curbs, sidewalks, street trees or planting strips, and bicycle routes.*

**Response:** Parking lots more than three acres in size are not proposed.

#### **9.075 On-Site Circulation.**

**Response:** The standards in this section apply to groups of more than three parking spaces or parking lots more than three acres in size. The proposed storage yard will not have additional parking. Therefore, this section does not apply.

**9.080 Bicycle Parking Facilities.**

*Multiple-family developments; industrial, commercial and community service uses; transit transfer stations; and park and ride lots, shall meet the following standards for bicycle parking facilities:*

**Response:** The proposed use is a storage yard for equipment and materials. The bicycle parking requirements in this section are not applicable.

**9.085 Setbacks.**

- A. *Parking areas which abut a residential zoning district shall meet the building setback of the most restrictive adjoining residential zoning district.*

**Response:** Not applicable. The site does not abut a residential zoning district.

- B. *Required parking shall not be located in a required front or side yard setback area abutting a public street except in industrial districts. For single-family dwellings, required parking may be located in front of a garage.*

**Response:** The site is zoned GI, which is an industrial district. Therefore, this standard does not apply.

- C. *In industrial districts, when greater setbacks are required for structures, parking lots may be within twenty (20) feet of any front, side street, or rear property line and within five (5) feet of any side property line. There shall be a sight-obscuring screen which is at least eighty percent (80%) opaque when viewed horizontally from between two (2) and eight (8) feet above eighty percent (80%) average ground level. The screening shall be composed of materials which are an adequate size so as to achieve the required degree of screening within three years after installation.*

**Response:** The standard above refers to industrial districts that have greater setback requirements because they are located adjacent to residential zones. The subject site is not located adjacent to a residential zone; therefore, this standard does not apply.

- D. *Parking areas shall be set back from a lot line adjoining a street the same distance as required building setbacks. Regardless of other provisions, a minimum setback of ten (10) feet shall be provided along the property fronting on a public street in an industrial district. The setback area shall be landscaped as provided in this Code.*

**Response:** There are no on-site parking areas proposed in this application. No changes are proposed to the existing parking area. Therefore, this standard does not apply.

**9.090 Truck Parking.**

*In residential zoning districts, no overnight parking of trucks or other equipment on wheels or tracks exceeding one-ton capacity used in the conduct of a business activity shall be permitted, except vehicles and equipment necessary for farming and truck gardening on the premises where such use is permitted.*

**Response:** Not applicable. The site is not located in a residential zone.

**9.095 Handicapped Parking Facilities.**

*The required number of handicapped parking spaces shall be in conformance with the applicable provisions of the State of Oregon Structural Specialty Code.*

**Response:** No additional parking spaces are proposed for the site in this application. Therefore, no additional handicapped parking spaces are required.

**9.100 Carpool and Vanpool Parking.**

*New industrial, commercial, and community service developments with fifty (50) or more on-site full-time equivalent employees shall meet the following requirements for carpool and vanpool parking:*

**Response:** This standard is not applicable. The proposed storage yard will not have on-site employees.

## **CHAPTER 11 – LANDSCAPING AND SCREENING**

**11.010 Minimum Basic Improvements.**

*These standards apply to developments other than single-family detached and duplex dwelling units on a single lot.*

- A. *The minimum area of a site to be retained in landscaping shall be as follows:*

| <b>Zoning District or Use</b>  | <b>Percentage</b> |
|--------------------------------|-------------------|
| <i>GI - General Industrial</i> | <i>10%</i>        |

**Response:** As shown on the Landscape Plan Sheet L100, this proposal will bring the entire site into compliance with the landscape require. Approximately 15 percent, or 44,655 square feet of the site, will be landscaped.

- B. *For attached dwellings, including mixed-use development, usable recreation areas shall be provided for development containing more than five (5) dwelling units at the rate of two hundred (200) square feet per dwelling unit. Such areas shall be counted as part of the required landscaping percentage. Examples include, but are not limited to, playgrounds, exercise trails, swimming pools, etc.*

**Response:** Dwellings are not proposed. Therefore, this standard does not apply.

- C. *Except for portions approved for parking, loading, or traffic maneuvering, a required setback area abutting a public street, and open area between the property line and the roadway in the public street, shall be landscaped. This landscaping shall be counted as part of the required landscaping percentage, except for that portion of the landscaping within the street right-of-way.*



**Response:** No changes are proposed to the existing impervious and landscaped portions of the existing development on the western portion of the site. No changes are proposed to the required front setback along NW Dunbar Avenue and no landscaping within the right-of-way is required with this application.

- D. *Site-obscuring shrubbery or a berm, wall, or fence shall be placed along the boundary of each classification of zone, i.e. residential, commercial or industrial, and around unsightly areas such as a trash or equipment storage area, or an outdoor industrial or commercial activity.*

**Response:** All properties surrounding the site have industrial zoning, GI and IP. Therefore, no site-obscuring elements are required.

- E. *Landscaping that is required by a land use approval shall be irrigated to ensure the survivability of the landscaping.*

**Response:** As shown on the Landscape Plan, Sheet L100, the owner will be responsible for providing hand watering for all newly installed plants and seeded areas for the duration of the one-year establishment period. Plantings will be watered twice per week to provide a minimum one inch of water to all seeded areas and 1.5 inches of water to all shrub and groundcover areas. Additional water may be required during summer months or times of unseasonable weather.

- F. *At least seventy-five percent (75%) of the required landscaped area shall be planted with a suitable combination of trees, shrubs, or evergreen groundcover.*

**Response:** As shown on the Landscape Plan Sheet L100, 22,144 square feet of trees, shrubs, or evergreen groundcover is required to meet the 75 percent requirement of this subsection. This standard is met through 16,266 square feet of existing vegetation and 10,949 square feet of proposed shrubs, trees, and groundcover plantings.

- G. *Plant Material:*

**Response:** Plant materials will be consistent with this standard. The Landscape Planting Legend on Sheet L100 provides detailed plant material information.

- H. *Landscaped areas may include architectural features or artificial groundcovers such as sculptures, benches, masonry or stone walls, fences, rock groupings, bark dust (medium coarse), decorative hard paving, and gravel areas, interspersed with planted areas. The exposed area developed with such features shall not exceed twenty-five percent (25%) of the required landscaped area. Artificial plants are prohibited in any required landscaped area.*

**Response:** As shown on Sheet L100, no architectural features or artificial groundcovers are proposed as part of the required landscaping.

- I. *Existing trees with a six (6) inch DBH or greater shall be preserved except when removal is specifically authorized by the Site and Design Review Committee or in the development approval.*

**Response:** Existing trees located near the southeast corner of the site will be retained, as indicated on Sheet L100. No trees are being removed as part of this proposal.

- J. *The area of the vegetation corridor on a site being developed counts toward the required landscape area.*

**Response:** This application proposes the removal of the vegetation corridor on-site through a Variance to VECO standards. This standard does not apply.

**11.015 Garbage and Recycling Container Enclosures.**

*All enclosures used to contain garbage and recycling containers at multiple-family, commercial, industrial, or institutional developments must conform to the following minimum standards:*

**Response:** No changes are proposed to the existing garbage and recycling storage area that serves the site. The proposed storage yard will not have garbage or recycling enclosures. This standard does not apply.

### **III. TROUTDALE MUNICIPAL CODE**

#### **CHAPTER 8.26 - OUTDOOR LIGHTING**

**Response:** No outdoor lighting is required or proposed for the storage yard. No changes are proposed to existing lighting serving the existing development on site. The provisions of Chapter 8.26 do not apply.

#### **CHAPTER 13.10 – TREES**

**13.10.270 - Tree removal.**

**Response:** Tree removal is not proposed as part of this project. The existing trees at the southeast portion of the site will remain on-site and be protected during construction, as shown on Sheet L100. The provisions of Chapter 13.10 do not apply.

### **IV. CONCLUSION**

As demonstrated in the responses above, the standards and criteria for the requested action have been met. We therefore respectfully request that the City approve the application as requested.

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## Introduction

Phoenix Industrial Redevelopment, LLC (Applicant) contracted with AKS Engineering & Forestry, LLC (AKS) to conduct a wetland and waters delineation for the proposed addition of a gravel yard behind their industrial facility located at 798 NW Dunbar Avenue in Troutdale, Oregon. This report was prepared in accordance with Oregon Administrative Rules (OAR) 141-090-0030 and 141-090-0035 (1-17) and describes the results of a forensic delineation conducted on Tax Lot 900 of Multnomah County Assessor's Map 1N 3E 26B (Figures 1 and 2, Appendix A). The study area for the delineation is approximately 2.95 acres and is shown in Figures 1 to 6 in Appendix A.

No previous wetland delineations were conducted within the study area boundary or on adjacent parcels. Further, on-site grading activities were conducted prior to the site visit. As a result, a forensic delineation was conducted to identify the pre-disturbance and post-disturbance wetland boundaries. Based on the results of the reconnaissance, the boundary of one potential wetland (referred to as Wetland A) was delineated within the study area boundary.

## A. Landscape Setting and Land Use

The study area is surrounded by industrial land uses in all directions and is zoned general industrial (GI) within the City of Troutdale. The study area is currently undeveloped and relatively unvegetated due to clearing of invasive Himalayan blackberry (*Rubus armeniacus*, FAC) and recent grading activities. A small forested area in the southeastern portion of the study area is dominated by balsam poplar (*Populus balsamifera*, FAC) and creeping buttercup (*Ranunculus repens*, FAC). Topography with the study area is generally flat with less than 3 percent slope.

According to the Natural Resources Conservation Service (NRCS) Multnomah County Area Soil Survey Map, Faloma silt loam, (Unit 16) a hydric soil series, is mapped within the study area (Figure 3, Appendix A).

## B. Site Alterations

Based on the review of historical aerial imagery, observations made during the site visits, and communication with the current property owners, there are several site alterations that could have affected the presence, location, or geographic boundaries of wetlands and waters within the study area. Dating back as early as 2001, evidence of vehicle use (tire tracks) throughout the study area is visible on Google Earth aerial imagery, possibly contributing to wetland conditions. It is currently unknown whether grading activities have historically occurred on-site; however, based on aerial imagery, the potential wetland boundary appears to have progressively gotten smaller within the study area from 2000 to 2017, coupled with a steady increase in Himalayan blackberry cover throughout the site.

The current property owners purchased Tax Lot 900 on July 28, 2017, in addition to Tax Lot 600 to the west. Since then, several site alternations have occurred.

- Gravel placement – sometime between November and December 2019, grading activities were conducted, and gravel was placed along the western one-third of the study area boundary. The gravel cannot be seen on current Google Earth aerials; however, the extent of existing gravel was surveyed and is depicted on the Post-Disturbance Wetland Delineation Map (Figure 6, Appendix

A). The placement of gravel is estimated to have impacted approximately 790 square feet of potential wetland area on-site.

- Grading activities – in March of 2020, grading for preparation of gravel placement began within the eastern two-thirds of the study area boundary. Grading consisted of the excavation of existing material along the northern property line, and the spreading of this material throughout most of the study area to level the existing grade in preparation for gravel placement. The grading activities cannot be seen on current Google Earth aerials; however, the approximate grading limits are depicted on the Post-Disturbance Wetland Delineation Map (Figure 6, Appendix A). Grading activities are estimated to have impacted approximately 3,390 square feet of potential wetland area on-site.

Google Earth aerial imagery dating from 2015 to 2019 are included in Appendix D, and a summary of these historical aerial images is provided in Table 1 below. Photographs of the study area taken on October 5, 2017 are provided in Appendix E to show existing site conditions prior to vegetation removal in

**Table 1. Summary of Historical Aerial Images**

| Month/Year | Details of Aerial Imagery  |
|------------|--|
| April 2015 | This image was taken prior to the current owners purchasing the property. The site is heavily vegetated with Himalayan blackberry, though a potential wetland area is visible within the Wetland A boundary defined during the forensic delineation. There is no evidence of continued vehicle use throughout the site by this time. |
| July 2016  | This image was also taken prior to the current owners purchasing the property. The boundary of Wetland A appears to have shrunk from the spring of 2015 and the site remains heavily dominated by Himalayan blackberry. No other changes to the site are evident.  |
| May 2017   | This image was also taken prior to the current owners purchasing the property. The site remains relatively unchanged from July 2016, though the southern extent of the potential wetland appears to be getting smaller and Himalayan blackberry has taken over. No other changes to the site are evident.                            |
| July 2018  | The Applicant has owned the property for one year prior to this image. Sometime in October 2017, vegetation on the site was cleared. No other ground disturbance has occurred; however, the boundary of Wetland A in the southwest corner appears slightly smaller than the boundary defined in the forensic delineation.            |
| June 2019  | The potential boundary of Wetland A has stayed relatively the same since July 2018. No other changes to the site are evident.  |

### **C. Precipitation Data and Analysis**

The closest National Oceanic and Atmospheric Administration (NOAA) Applied Climate Information System (ACIS) WETS (climate analysis for wetlands tables) station is the Troutdale, Oregon station. According to the WETS data, the growing season for the study area is between February 23 and December 1. The site visit was conducted in April 2020 and was therefore within the WETS growing season. During the visit, AKS observed bud bursts on woody plants and the emergence of herbaceous plants from the ground.

Observed precipitation data were obtained from the Troutdale, Oregon station. According to the ACIS website, no rainfall was received the day of the April 7, 2020 site visit and 1.98 inches were received for the two weeks prior. Observed water year-to-date prior to the April 2020 visit (starting October 1, 2019) was 27.3 inches (5.26 inches below normal). As depicted in Table 2 below, drier than normal rainfall was observed within the study area during the three months prior to the site visit, per the ACIS Troutdale station. Due to the lower than normal rainfall levels leading up to the site visit, the absence of primary hydrology indicators was determined to not be a reliable indicator of wetland conditions on-site.

**Table 2. Precipitation Data**

| Prior Months  | Observed Precipitation (Inches) | Average WETS Precipitation (Inches) | 30% Chance Will Have |           | Condition Dry, Wet, Normal | Condition Value (1=dry, 2=normal, 3=wet) | Month Weight | Multiply Previous Two Columns |
|---|---------------------------------|-------------------------------------|----------------------|-----------|----------------------------|--|--------------|-------------------------------|
|   |                                 |                                     | Less Than            | More Than |                            |  |              |                               |
| March 2020  | 1.53                            | 4.68                                | 3.58                 | 5.43      | Dry                        | 1  | 3            | 3                             |
| February 2020   | 2.94                            | 4.71                                | 3.44                 | 5.54      | Dry                        | 1  | 2            | 2                             |
| January 2020  | 10.01                           | 5.95                                | 3.95                 | 7.13      | Wet                        | 3  | 1            | 3                             |
| Sum   |                                 |                                     |                      |           |                            |  |              | 8                             |
| Rainfall of prior period was: <b>drier</b> than normal (sum is 6-9), <b>normal</b> (sum is 10-14), <b>wetter</b> than normal (sum is 15-18) |                                 |                                     |                      |           |                            |  |              |                               |

## D. Methods

The methodology used to determine the presence of wetlands followed the *Corps of Engineers Wetlands Delineation Manual* (Environmental Laboratory, 1987) and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0)* (Wakeley et al., 2010), as well as standard forensic wetland delineation methods. The *National Wetland Plant List 2018* (Lichvar et al., 2018) was used to assign wetland indicator status for the appropriate region, where vegetation was present. References cited and literature used are listed at the end of this report.

Field work was conducted on April 7, 2020, by Julie Wirth-McGee, PWS, Senior Environmental Specialist and Sonya Templeton, Natural Resource Specialist. Field staff initially learned about the recent grading activities once on-site. As a result, staff established several standalone plots throughout the study area within the vicinity of the mapped wetland on the US Fish and Wildlife Service's National Wetland Inventory (NWI). Soils, vegetation, and indicators of hydrology were recorded at several sample plot locations. Plots that contained fill material were not evaluated for hydric soil conditions until native soil material was encountered below the fill material.

Following completion of the field work, AKS staff used historical aerial imagery to demarcate the potential wetland boundary present on-site prior to ground disturbing activities. Per communication with Oregon Department of State Lands (DSL) staff, the potential wetland boundary was delineated based on the potential wetland area observed on the May 2017 Google Earth aerial, as this image was taken approximately two months prior to the current owners purchasing the property. Once the boundary of Wetland A was delineated, the three data plots that were established within the wetland boundary and

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within undisturbed areas on-site were recorded on standardized wetland determination data forms to document site conditions (Appendix B).

## **F. Description of Wetlands**

Only one wetland, Wetland A, was identified within the study area boundary; no non-wetland waters were present. A description of Wetland A, including its location, characteristics, and boundaries is provided below. Representative ground level site photographs are included in Appendix C.

### **Wetland A**

Wetland A is a temporarily flooded wetland with persistent herbaceous vegetation (PEM1A) that is located entirely within the central portion of the study area. Topography within the wetland was generally flat (less than 3 percent slope); therefore, Wetland A would be within the flats hydrogeomorphic (HGM) class. The wetland is dominated by field meadow foxtail (*Alopecurus pratensis*, FAC) but is generally unvegetated because of recent grading activities (see Plot 3). Fill material was observed within 24 inches of the soil surface and therefore evaluation of hydric soil indicators was observed below the fill where native soils were encountered. Native soils were low chroma (chroma of 2 or less) displaying common prominent redoximorphic features, meeting hydric soil indicator F6 Redox Dark Surface. A seasonally high groundwater table and direct precipitation are likely the main hydrology sources for Wetland A. Wetland hydrology was not observed during the April 2020 site visit; however, wetland hydrology is assumed to present for long enough during the growing season to create anerobic conditions based on the strong hydric soil indicators observed and lower than normal precipitation levels prior to the site visit.

### **Upland**

Plot 1, located in the southeastern corner of the site within the forested area, documents the conditions in a topographically low point within mapped hydric soils. Plot 1 was dominated by balsam poplar and creeping buttercup; the area lacked shrub and herbaceous ground cover. Soils lacked both hydric soil indicators and indicators of wetland hydrology. This portion of the site appeared to be relatively undisturbed and fill material was not observed in the plot.

Plot 2, located within the NWI mapped feature and within hydric soils in the eastern portion of the site, documents conditions within a topographically low point outside of the potential Wetland A boundary. Plot 2 was dominated by red dead-nettle (*Lamium purpureum*, NOL), common velvet grass (*holcus lanatus*, FAC), and cutleaf geranium (*Geranium dissectum*, NOL). Soils lacked hydric soil indicators with redoximorphic features beginning too deep below the soil surface. No fill was observed with the plot, though the area appeared to be partially disturbed based on vegetation cover. Indicators of wetland hydrology were not observed during the April 2020 site visit.

## **G. Deviation from LWI or NWI**

The City of Troutdale does not have a DSL-approved Local Wetland Inventory (LWI). According to the NWI, one PEM1A wetland is mapped within the study area (Figure 4, Appendix A). The boundary of potential Wetland A from our site investigation is within the NWI-mapped feature.

## **H. Mapping Method**

Sample Plots 1 through 3 were GPS mapped by AKS using a hand-held Trimble Geo 7X with submeter accuracy. The delineation map is included as Figure 5 in Appendix A. The boundary of Wetland A was

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mapped using Google Earth and ArcMap, then exported into AutoCAD to create the Pre- and Post-Disturbance Wetland Delineation Maps. Wetland boundary mapping is believed to meet the submeter accuracy requirement of OAR 141-090-0035(11).

### **I. Additional Information**

Due to recent grading activities and weather conditions leading up to the site investigation, the actual presence of wetland conditions within Wetland A could not be positively confirmed. Based on historical aerial imagery, however, indicators of wet conditions within the vicinity of Wetland A are evident. As a result, Wetland A, as mapped using forensic delineation methodology, is likely to be determined jurisdictional by DSL.

Wetland A is an isolated feature that has no hydrologic connection to other wetlands or waters, and would not meet the definition of an adjacent wetland because of the following:

- It does not physically touch other jurisdictional waters.
- It is not separated from a water of the US by a natural berm, bank, or dune.
- It is not inundated by flooding from a water of the US during a typical year.
- It is not physically separated from a jurisdictional water by an artificial dike, barrier, road, or similar artificial structure that allows for a direct hydrologic surface connection between the wetlands and the jurisdictional water in a typical year.

Under the 2020 Navigable Waters Protection Rule (EPA, 85 FR 22250), only wetlands that physically touch other jurisdictional waters via a direct hydrologic surface connection during a “typical year” are considered “adjacent wetlands,” and thereby subject to the provisions of Clean Water Act (CWA) Section 404. As a result, Wetland A is not likely to be regulated by the US Army Corps of Engineers (USACE).

### **J. Summary of Results and Conclusions**

Using a combination of Google Earth aerial imagery and evidence from the site investigation, the potential boundary of Wetland A was delineated within the study area boundary. Table 3 below provides a summary of the size of the on-site wetland, its Cowardin and HGM classification and hydrologic connection to other nearby waters, and our prediction of whether Wetland A would likely be determined jurisdictional by DSL or the USACE.

**Table 3: Summary of Results and Conclusions**

| <b>Potentially Jurisdictional Feature</b> | <b>Latitude/ Longitude</b> | <b>Size (square feet)</b> | <b>Cowardin Class</b> | <b>HGM Subclass /Flow Regime</b> | <b>Connection to Other Waters</b> | <b>DSL/USACE Predicted Jurisdiction</b> |
|---|----------------------------|---------------------------|-----------------------|----------------------------------|-----------------------------------|---|
| Wetland A                                 | 45.545890/<br>-122.405392  | 4,180                     | PEM1A                 | Flats                            | None                              | DSL Only                                |

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### **K. Required Disclaimer**

This report documents the investigation, best professional judgment, and conclusions of the investigators. It is correct and complete to the best of our knowledge. It should be considered a Preliminary Jurisdictional Determination of wetlands and other waters and used at your own risk, unless it has been reviewed and approved in writing by the Oregon Department of State Lands in accordance with Oregon Administrative Rules (OAR) 141-090-0005 through 141-090-0055.

### **L. List of Preparers**



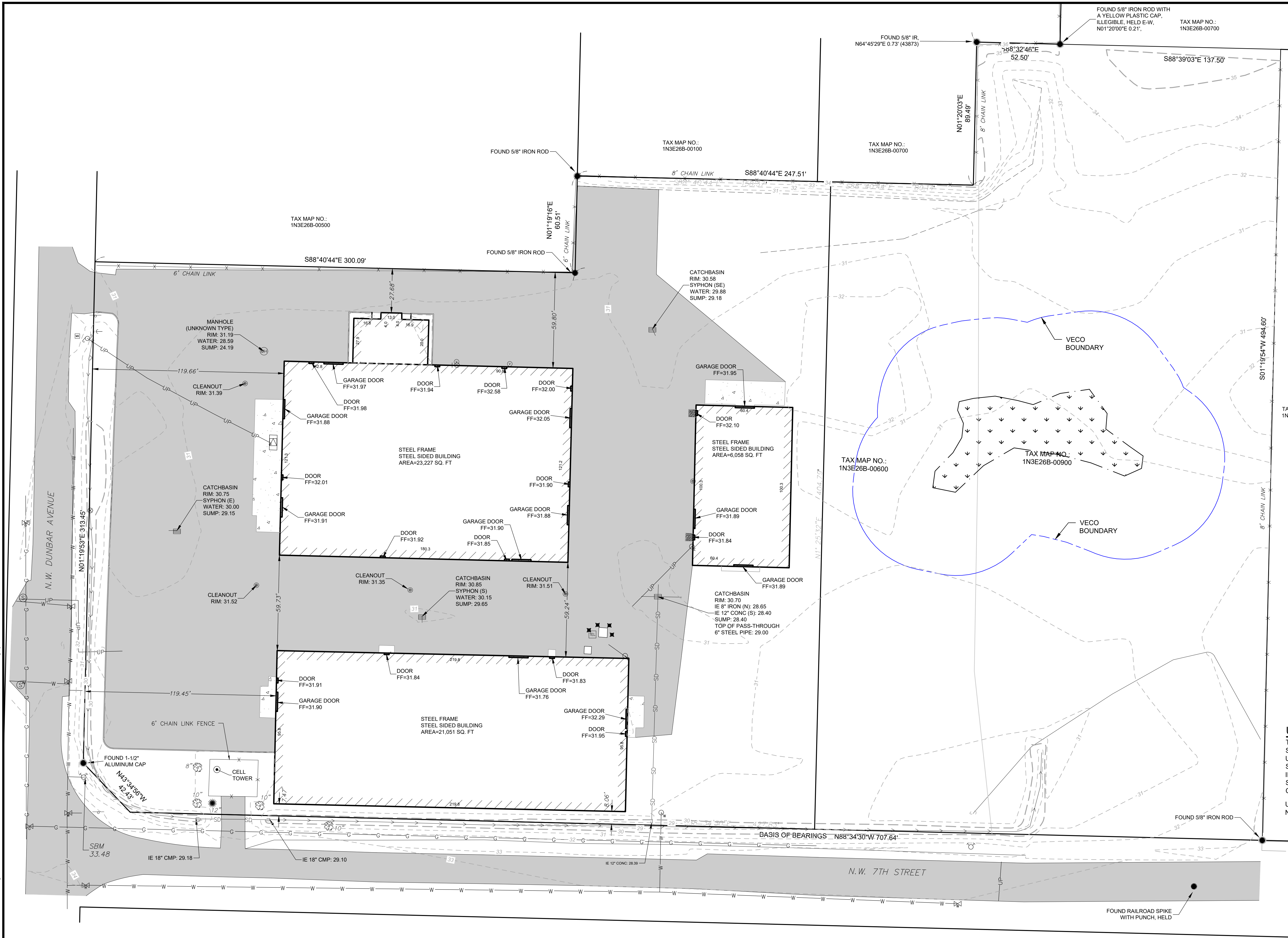
Sonya Templeton  
Natural Resource Specialist  
Fieldwork and Report Preparation



Julie Wirth-McGee  
Senior Environmental Specialist  
Fieldwork and Report Preparation



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#### LEGEND

- FOUND MONUMENT
- BOLLARD
- POWER POLE
- POWER METER
- WATER VALVE
- FIRE HYDRANT
- TELEPHONE RISER
- GAS STRIKE
- WATER SPIGOT
- GAS VALVE
- SIGN POST
- STORMWATER CATCH BASIN
- STORMWATER CLEANOUT
- UTILITY MANHOLE
- MAILBOX
- 16" CONIFEROUS TREE WITH SIZE
- 16" DECIDUOUS TREE WITH SIZE
- SPOT ELEVATION
- SUMP

- SUBJECT PROPERTY
- EDGE OF GRAVEL
- WALL
- CENTERLINE
- DITCHLINE
- FENCELINE
- W-W WATER LINE
- OH-OH OVERHEAD POWER LINE
- UP-UP UNDERGROUND POWER
- SD-SD STORM LINE
- G-G GAS LINE
- BUILDING
- CONCRETE SURFACE
- PAVEMENT SURFACE

#### VERTICAL DATUM:

THE BASIS OF BEARING FOR THIS SURVEY IS THE NORTH LINE OF NW 7TH ST AS SHOWN ON THAT RECORD SURVEY FIELD AS SN63745, MULTNOMAH COUNTY SURVEY RECORDS. THE BEARING OF SAID NORTH LINE BEING NORTH 88°34'30" WEST.

ELEVATIONS FOR THIS SURVEY ARE BASED ON AN OPUS RESOLUTION FOR A GPS OBSERVATION MEASURED ON JANUARY 2, 2018. A SITE BENCHMARK WAS ESTABLISHED ON THE NORTHEAST FLANGE BOLT OF THE FIRE HYDRANT LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF N.W. 7TH ST AND N.W. DUNBAR AVE. THE ELEVATION OF SAID SITE BENCHMARK BEING 33.48' (NAVD88)

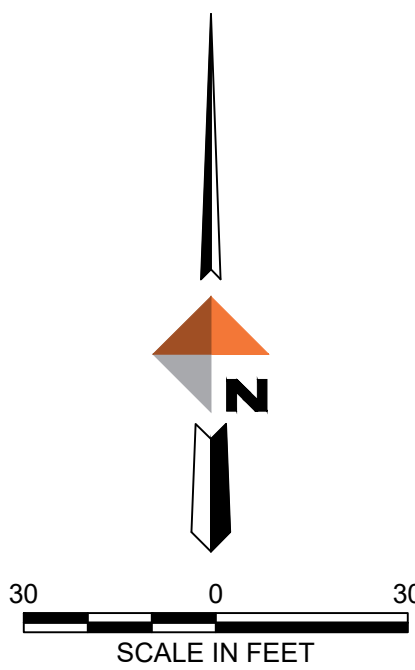
#### NOTES:

- 1) THE SURVEY WAS PERFORMED BY TOM NELSON & ASSOCIATES, L.L.C. ON JANUARY 26, 2018 (BEING THE DATE THAT THE FIELD WORK FOR THIS SURVEY WAS COMPLETED), THIS SURVEY REFLECTS THE CONDITION OF THE SUBJECT PROPERTY ON JANUARY 26, 2018, AND DOES NOT REPRESENT THE CURRENT CONDITION OF THE SUBJECT PROPERTY THEREAFTER.
- 2) AREA OF THE SUBJECT PROPERTY = 295,246 SQUARE FEET (6.778 ACRES)
- 3) SITE ADDRESS: 798 NW DUNBAR AVE, TROUTDALE, OR 97060

#### UTILITY STATEMENT:

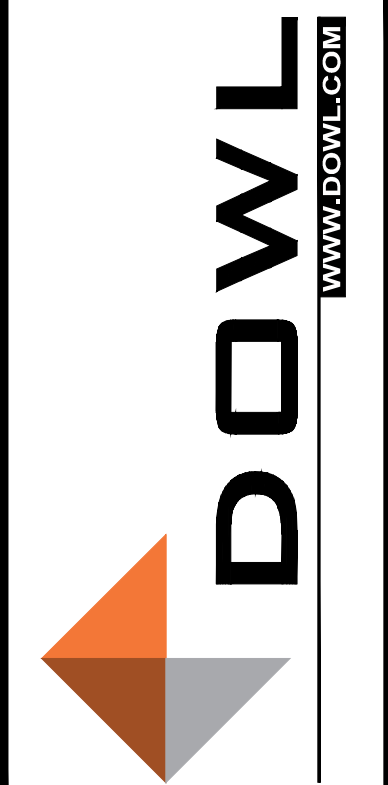
THIS SURVEY MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE OF ALL SUCH UTILITIES IN THE AREA. THE UNDERGROUND UTILITIES SHOWN MAY NOT BE IN THE EXACT LOCATION AS NOTED ON THIS SURVEY, BUT ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION PROVIDED. MANHOLES OTHER THAN SANITARY AND STORM SEWER WERE IDENTIFIED BY MANHOLE LIDS AND MAY NOT BE LABELED CORRECTLY.

UTILITY LOCATIONS SHOULD BE VERIFIED BY OREGON UTILITIES NOTIFICATION CENTER IMMEDIATELY PRIOR TO ANY EXCAVATION.



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FOR REVIEW ONLY



DUNBAR INDUSTRIAL  
CITY OF TROUTDALE, OREGON  
EXISTING CONDITIONS

N.W. 1/4 OF SECTION 26, T.1N, R.3E, W.M.  
CITY OF TROUTDALE, MULTNOMAH COUNTY, OREGON

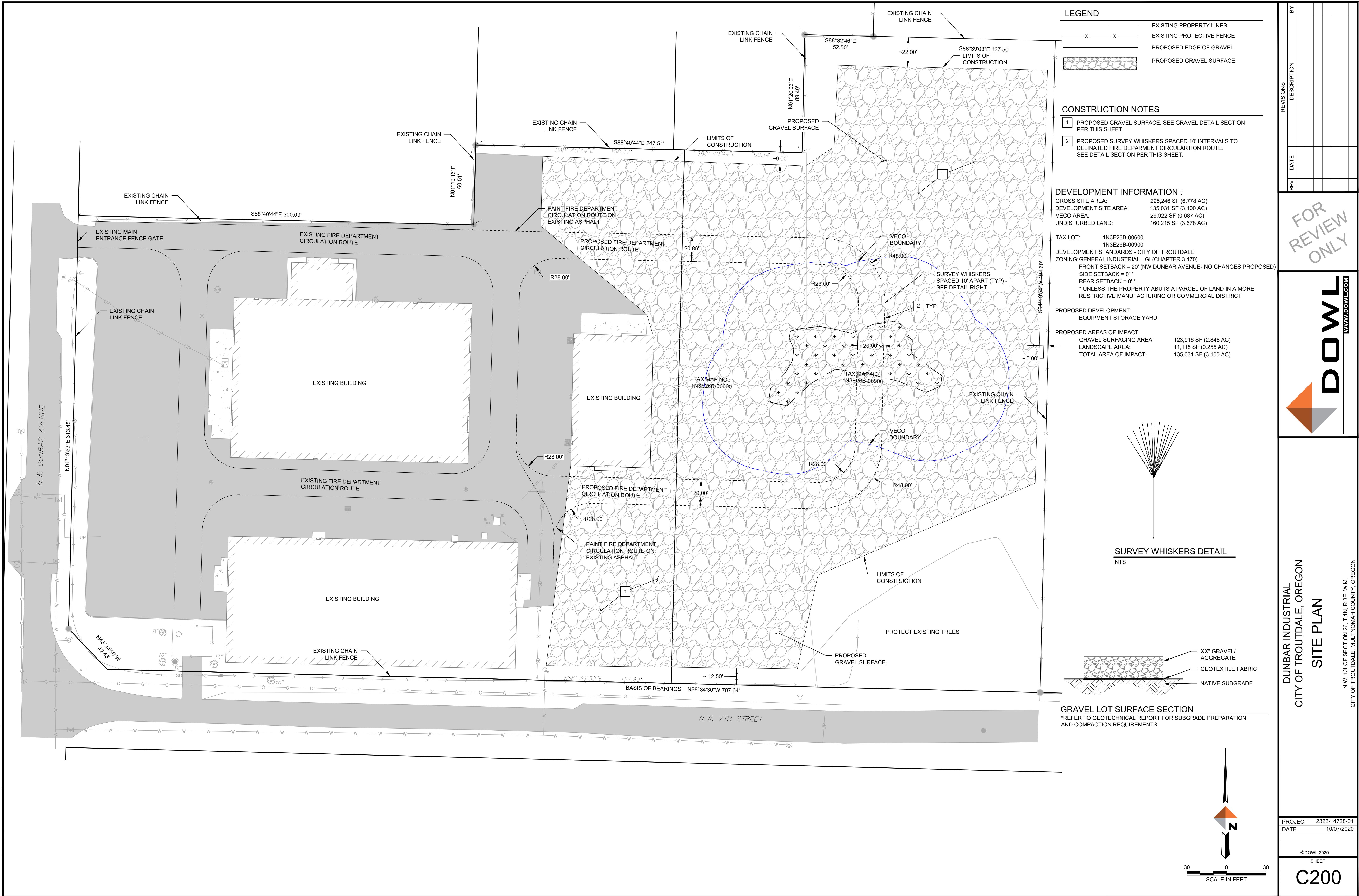
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## Findings of Fact & Final Order

HEARING &  
DECISION DATE:

December 16, 2020

|                    |   |                     |  |
|--------------------|---|---------------------|--|
| FILE NUMBER / NAME | LU-0015-2020 Dunbar Industrial Storage Yard       |                     |  |
| APPLICATION TYPE   | Type III Variance, Type I Site Development Review |                     |  |
| PROJECT APPLICANT  | Steve Kreitzberg, PIR Dunbar LLC                  | PROPERTY OWNER      | Same as applicant  |
| PROJECT LOCATION   | 798 NW Dunbar Ave                                 | TAX MAP / TAX LOT # | 1N3E26B -00600 / R943261070<br>1N3E26B -00900 / R943261430 |
| LAND USE MAP       | Industrial (I)                                    | LAND USE ACTIVITY   | Industrial   |
| ZONING DISTRICT    | GI – General Industrial                           | OVERLAY DISTRICT    | VECO   |

### PROPOSAL

The Applicant is applying to develop a pervious gravel pad for material and equipment storage. The Applicant is proposing for the gravel pad to cover part of lot 1N3E26B -00600, and the majority of the currently vacant lot 1N3E26B -00900. A Type III Variance is required because creating the gravel lot will require filling an entire wetland on site, which will disturb 100 percent of the vegetation corridor (VECO). No paving, new streets, or structures are proposed as part of this project, however the impervious conditions already exist. This application will bring this site into conformance. The Applicant intends to conserve the existing grove of trees on tax lot -00900.

### PROCEDURE

This application is undergoing a Type III quasi-judicial procedure. [TDC 2.060 and 6.1300] This procedure requires a Public Hearing and Planning Commission review in order to be adopted. Planning Commission is the decision-making body for this application and may approve, approve with conditions, or deny this application. Nearby property owners, relevant review entities, and other stakeholders have been notified accordingly. [TDC 2.075 - 2.090]

### APPLICABLE CRITERIA

Listed below are governing standards that shall apply for this application:

- *Troutdale Development Code (TDC): Ch. 1* Introductory Provision; **Ch. 2** Procedures for Decision Making; **Sec. 3.170** General Industrial (GI); **Sec. 4.300** Vegetation Corridor and Slope District; **Sec. 5.600** Erosion Control and Water Quality Standards; **Sec. 5.700** Stormwater Management; **Sec. 5.1000** Public Improvements; **Sec. 6.900** Site Development Review; **Sec. 6.1300** Variance; **Ch. 9** Off-Street Parking & Loading; **Ch.11** Landscaping and Screening **Ch. 17** General Provisions
- *Troutdale Municipal Code:* 8.26 Outdoor Lighting; 13.10.270 Tree Removal
- *Construction Standards for Public Works Facilities*
- *City of Troutdale Comprehensive Land Use Plan*
- Building and Fire Codes

### FINDINGS OF FACT

- Planning Commission received public testimony from Staff, the Applicant, and members of the public at the December 16, 2020 hearing.
- The Findings of Fact contained herein are derived from the specific decision criteria outlined in Sections 6.1300 and 6.900 of the Troutdale Development Code and are hereby adopted as the Findings of Fact in this matter.
- The Final Order has been reached and **approval** of the application **with conditions** is hereby issued.

**FINDINGS OF FACT – VARIANCE [TDC 6.1325]**

**6.1325 The Planning Commission may grant a variance under the Type III procedure if the request involves the expansion or reduction of a quantifiable provision in this Code by more than thirty percent (30%) if the Planning Commission determines that the criteria in Section 6.1315 of this Chapter are met:**

- A. Special circumstances or conditions including, but not limited to, lot size, lot shape, topography, or size or shape of building, apply to the property, development, or to the intended use and are not typical of the general conditions in the surrounding area; and**

FINDING: According to the project narrative, the site conditions “are unique in that the affected wetland is an isolated, low-function, low-value wetland that occupies a central area of the site, rendering the site unusable if not impacted”. The wetland is isolated, located entirely within the boundaries of the site, and has no hydrologic connections to other wetlands or waters. **The criterion is met.**

- B. The variance authorized will not be injurious to adjacent properties or the surrounding neighborhood or otherwise detrimental to the public welfare; and**

FINDING: As noted above, the wetland is entirely within the bounds of the project site, and not connected to any other waters. Its functions and values are rated low to low-moderate and is not expected to have any adverse impacts to rare, threatened, or endangered species. Additionally, no upstream or downstream flooding is expected. **The criterion is met.**

- C. The variance authorized will be consistent with the general purpose and intent of the provision from which a variance is sought; and**

FINDING: The general purpose and intent of the VECO overlay is to protect water and land quality, comply with Metro and State goals, and preserve natural resources and habitat. The application materials demonstrate that the filled wetland is low-functioning with little impact on water quality or habitat for sensitive species. Providing adequate mitigation will be consistent with the intent of this provision. **As such, the criterion is conditionally met.**

- D. The variance is the minimum necessary to relieve a practical difficulty with full compliance and to avoid or minimize the resulting hardship.**

FINDING: The location of the wetland significantly hinders the ability to develop the site, especially in order to accommodate adequate emergency vehicle access. **The criterion is met.**

**FINDINGS OF FACT – SITE DEVELOPMENT REVIEW [TDC 6.920]**

**6.920** Approval Criteria. In order to approve a site development review application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that the proposal is consistent with the applicable approval criteria.

**Section 6.920.A**

An application for a Type I site development review shall be approved if the proposal meets all of the following criteria. The City decision-making body may, in approving the application, impose reasonable conditions of approval, consistent with the applicable criteria.

1. **The application complies with all of the applicable provisions of the underlying zone and overlay zone(s), including but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards, or a variance or adjustment is granted.**

FINDING: The development meets setback standards. No building or land division is proposed with this project, as such lot area, dimensions, density, floor area, lot coverage, building height, orientation, and architecture standards are not applicable. The application is seeking a Type III Variance from the VECO standards. Upon approval of the variance and any conditions of approval, **the criterion is conditionally met.**

2. **The proposal includes required upgrades, if any, to existing development that does not comply with the applicable land use district standards, pursuant to Section 5.300 Nonconforming Uses.**

FINDING: According to land use case file number 17-065, there were two nonconformities present on the property. A lot line adjustment was required as a condition of approval and later approved under case file 18-006 to reduce the nonconformity. **The criterion is met.**

3. **The proposal complies with all applicable site design and development standards of this Code, such as landscaping and parking.**

FINDING: No additional employees are being added with the proposed storage yard, and the current development meets the minimum number of required vehicle parking spaces. According to the Findings of Fact for land use case file number 19-007, the existing developed property meets parking requirements.

The project narrative wrote that 11.010.D does not apply, however, as the outdoor storage would be considered an equipment storage area or outdoor industrial activity, site-obscuring shrubbery or a berm, wall, or fence shall be required. Additionally, the amount of landscaping proposed to be provided is unclear. The landscaping plan states that 44,655 square feet of landscaping are proposed to be maintained. However, the existing and proposed planting areas only add up to 27,381 square feet. 29,524.6 square feet of landscaping is required. Further, it appears the only new plantings proposed are groundcover; at least 75 percent of the required landscaped area shall be planted with a suitable combination of trees, shrubs, or evergreen groundcover (TDC 11.010.F). An updated landscaping plan shall be required demonstrating compliance with landscaping requirements, including an Operations & Maintenance Plan detailing how the irrigation will be sufficient to ensure survivability. **The criterion is conditionally met.**

4. **The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable.**

FINDING: With the completion of the required lot line adjustment, conditions of approval for case file 17-065 have been met. Staff have been informed that Cannabis One, the company that sought a conditional use permit under case file 19-007, no longer plans to locate at the site. Thus, the conditions of approval for 19-007 would not apply. **The criterion is met.**

## FINAL ORDER & DECISION

### FINAL ORDER

Based upon the foregoing Findings of Fact, the Troutdale Planning Commission ***approves*** the Variance and Site Development Review for Case File LU-0015-2020 (Dunbar Industrial Storage Yard) on the count of all decision criteria being met, ***subject to the conditions of approval*** as stated herein.

### DECISION

The Planning Commission hereby adopts these Findings of Fact as stated and has voted to approve the Application as described in the Final Order above and subject to the conditions of approval as stated herein.

This decision shall expire two (2) years from the date of this Final Order.

**YEAS:**

**NAYS:**

**ABSTAINED:**

**ABSENT:**

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Tanney Staffenson, Planning Commission Chair

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Date

## CONDITIONS OF APPROVAL

### City of Troutdale Planning Division

1. Applicant shall be required to satisfy comments made by review entities, included in the attached Findings of Fact, or shall work with Staff to reach an agreement between the parties.
2. Applicant shall submit an updated landscaping plan to meet the requirements of Chapter 11, including an Operations & Maintenance Plan showing that landscaping will be sufficiently irrigated.
3. Applicant shall provide to the City the approved Joint Permit Application prior to the issuance of grading permits.
4. Site-obscuring shrubbery or a berm, wall, or fence shall be placed along the boundary of the equipment storage area and meet the standards in TDC Sec. 5.050.
5. All on-site improvements, including but not limited to the maintenance of the gravel, shall be the ongoing responsibility of the property owner or occupant.
6. The approval of case file LU-0015-2020 shall expire automatically two (2) years from the effective date of the decision unless the approval is enacted either through construction, establishment of use, or recordation of plat or survey within the specified time period. The effective date of the decision shall be the date of the Notice of Decision, unless such decision is appealed.

### City of Troutdale Public Works Department

1. Applicant shall obtain an erosion control permit through the City and pass an initial erosion control inspection prior to commencing ground disturbing activity on the site.

### City of Troutdale Building Division

1. Following Land Use approval, the applicant shall contact the Building Division to begin the submittal process for grading and erosion control permits as well as any applicable trade permits.

### City of Gresham Fire & Emergency Services

1. Required Fire Dept. Access Roads on site shall be designed to support an apparatus weighing 75,000 lb. gross vehicle weight. Provide an engineer's letter stating the access road meets those requirements at time of building permit submittal. **OFC, Appendix D, Section D102.1**
2. The turning radius for all emergency apparatus roads shall be: 28' inside and 48' outside radius. **OFC 503.2.4**
3. No Parking Fire Lane signage or curb marking will be required. Fire access roads 20' – 26' wide require the marking on both sides. Indicate on the building permit plans. Red EZ roll delineators were previously approved for lane markings. Survey whiskers are not a permitted method of fire lane marking, as shown on plans. Fire lane signage will also be required at each entry point. **OFC D 103.6**
4. If a gate is installed on a fire access road, it must meet the requirements of the Gresham Fire Gate Policy. A KNOX lock box will be required at the gate(s). **OFC 506.1**



## Staff Report

**Report Date:** December 7, 2020

**Meeting Date:** December 16, 2020

**FILE NUMBER / NAME** LU-0017-2020 Aragon Shed

**APPLICATION TYPE** Type III Variance

**PROJECT APPLICANT** Michael A. Aragon and Cherie Mae O. Aragon

**PROPERTY OWNER** Same as applicant

**PROJECT LOCATION** 1158 SE Walter Circle

**TAX MAP / TAX LOT #** 1S3E01DA -00100 / R256870060

**LAND USE MAP** Low Density Residential (LDR)

**LAND USE ACTIVITY** Residential

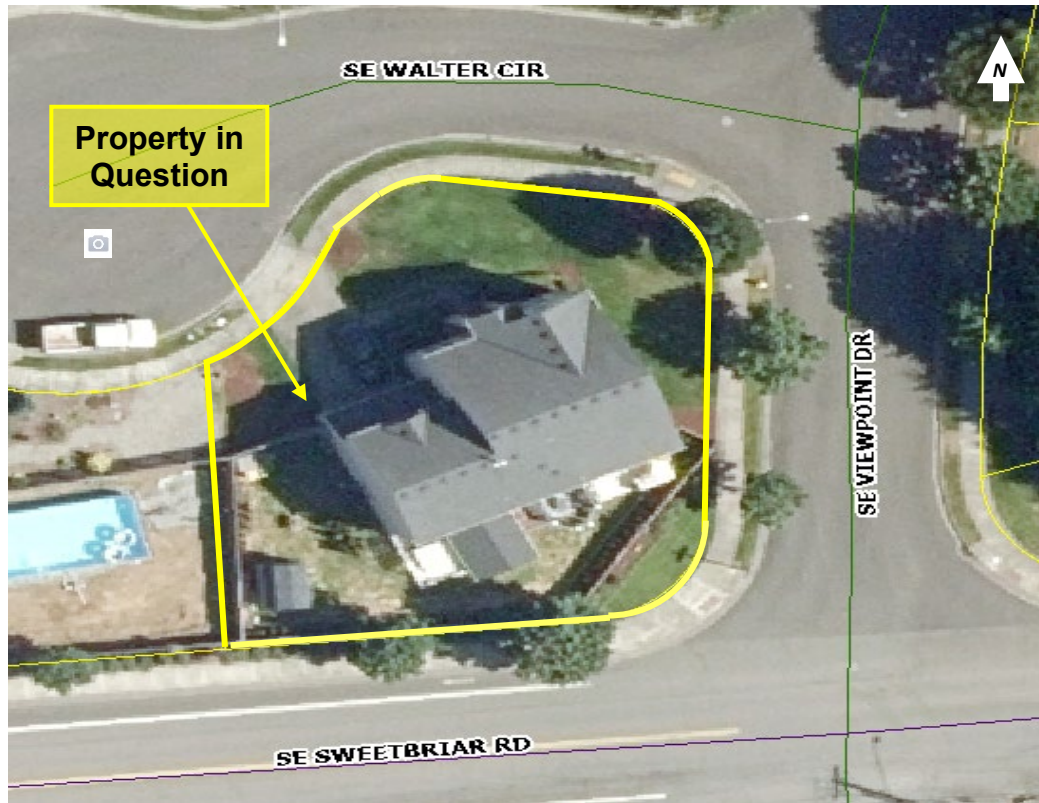
**ZONING DISTRICT** R-10 - Single Family Residential

**OVERLAY DISTRICT** None

### PROPOSAL

The Applicant is proposing an oversized accessory structure within the side setback of their property. The Applicant intends to use the structure for storage, a playhouse, and a space to quarantine due to COVID-19 if necessary. TDC 5.010.B.3 states that no accessory structure over 200 square feet in area or 10 feet in height shall be located within a side or rear yard setback. The proposed structure is 275 square feet in area, 12 feet in height, and within 3 feet of the property's west property line. The Applicant proposes this size as the minimum practical for the intended use, and this placement in order to maintain adequate clearance between the structure and house. Although the applicant refers to the structure as a "tiny home", it is not considered an accessory dwelling unit since they have confirmed there will be no kitchen facilities.

### VICINITY MAP



Location of Street View Perspective



**STREET VIEW (Google 2011)**

View of Property in Question looking southeast from SE Walter Circle.

**APPLICATION HISTORY**

The structure in question is partially constructed. Staff was informed of the structure's situation in September 2020 and determined a land use application was required. No formal pre-application was held for this application, however there was an informal meeting with the applicants on September 22, 2020. The Applicant submitted materials for this application on October 5, 2020 and it was deemed incomplete on October 9, 2020. The Applicant resubmitted materials on October 21, 2020. The application was deemed complete November 4, 2020. The Notice of Application was sent to reviewers and nearby property owners November 10, 2020. The public hearing is scheduled for December 16, 2020.

**PROCEDURE**

This application is undergoing a Type III quasi-judicial procedure. [TDC 2.060 and 6.1300] This procedure requires a Public Hearing and Planning Commission review in order to be adopted. Planning Commission is the decision-making body for this application and may approve, approve with conditions, or deny this application. Nearby property owners, relevant review entities, and other stakeholders have been notified accordingly. [TDC 2.075 - 2.090]

**APPLICABLE CRITERIA**

- *Troutdale Development Code (TDC): Ch. 1* Introductory Provision; **Ch. 2** Procedures for Decision Making; **Sec. 3.020** Single-Family Residential (R-10); **Sec. 5.010** Accessory Structures; **Sec. 5.600** Erosion Control and Water Quality Standards; **Sec. 5.700** Stormwater Management; **Sec. 6.1300** Variance; **Ch. 17** General Provisions
- *City of Troutdale Comprehensive Land Use Plan*
- *Construction Standards for Public Works Facilities*
- Building and Fire Codes

**REVIEW ENTITY COMMENTS**

Listed below are review entities who received the Notice. If the entity provided comments, they can be found in a corresponding attachment.

| Review Entity     | Comments      | Review Entity | Comments      |
|-------------------|---------------|---------------|---------------|
| Building Division | Attachment 1  | Public Works  | None Proposed |
| Gresham Fire      | None Proposed |               |               |

**OTHER COMMENTS**

As of the date of this Staff Report, four comments were received from notified nearby property owners. All four comments expressed support for the application. One specifically mentioned that it is in their line of sight from their property across

the street and that it is “very pleasing in appearance and seems very practical”. Another comment questioned if these same variances would be granted to other residents, including themselves, who may seek to build a similar structure.

| Name         | Comments     | Name                       | Comments     |
|--------------|--------------|----------------------------|--------------|
| Illya Gutsul | Attachment 2 | Shane & Cynthia Steffanson | Attachment 4 |
| Lori Harding | Attachment 3 | Valentyn Budianu           | Attachment 5 |

## RECOMMENDATION

For this application, Staff recommends Planning Commission vote for **denial**. Staff has prepared a draft **Findings of Fact and Final Order** document, outlining how the decision criteria for this application were satisfied or not satisfied.

## PROPOSED CONDITIONS OF APPROVAL

If Planning Commission determines that the application should be approved, Staff recommends the following conditions of approval be incorporated. Any subsequent approvals from the City shall not be issued until all conditions listed in the attachments are adequately addressed as determined by the appropriate review entity. Planning Commission reserves the right to amend the draft and proposed conditions unless other governing documents or agreements state otherwise.

### City of Troutdale Planning Division

1. Applicant shall be required to satisfy comments made by review entities, included in the attached Findings of Fact, or shall work with Staff to reach an agreement between the parties.
2. The approval of case file LU-0017-2020 shall expire automatically two (2) years from the effective date of the decision unless the approval is enacted either through construction, establishment of use, or recordation of plat or survey within the specified time period. The effective date of the decision shall be the date of the Notice of Decision, unless such decision is appealed.

### City of Troutdale Building Division

1. Following Land Use approval, the applicant shall contact the Building Division to begin the submittal process for building permits as well as any applicable trade permits.

## GENERAL INQUIRIES

For more information, please contact Amber Shackelford at [amber.shackelford@troutdaleoregon.gov](mailto:amber.shackelford@troutdaleoregon.gov) or at (503) 674-7230.



## MEMORANDUM

**DATE:** November 20, 2020  
**FROM:** Heather Jones, Building Inspector I (on behalf of the Building Official)  
**TO:** Planning Division  
**SUBJECT:** Building Division Comments – Aragon Shed (LU-0017-2020)

The Building Division has reviewed the application submittal for **Aragon Shed (1158 SE Walter Cir.)** and provides the following conditions and comments [based on the 2017 Oregon Residential Specialty Code (*Building Code*)]:

### Comments

- This application is for a permanent structure (proposed 275 sq. ft. & 12 ft. tall) with a portion of the structure intended for storage and a portion of the structure intended for a tiny home/living space. (This information is based on the provided *Narrative*.)
- Based on the information provided in the Land Use application submittal materials:
  - This structure would require a building permit and applicable trade permits (mechanical, electrical, plumbing, etc.).
  - This structure must meet all the requirements of the Oregon Residential Specialty Code's currently adopted edition at the time of building permit submittal.
- Attached to these comments is a document titled *Residential Building Design Criteria*. This is a guide for use in navigating the *Building Code* requirements specific to our area (snow, seismic & wind loads). These criteria should be incorporated in your building permit plans and documents prior to submittal to the Building Division.
- Adopted building codes may be viewed online free of charge at the Oregon Building Codes Division website at <https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx>.

### Conditions

- Following Land Use approval, the applicant shall contact the Building Division to begin the submittal process for building permits as well as any applicable trade permits.

### **CONTACT INFORMATION:**

Sean Blaire, Building Official  
City of Troutdale Building Division  
(503)618-2794  
[sean.blaire@greshamoregon.gov](mailto:sean.blaire@greshamoregon.gov)

Heather Jones, Building Inspector I  
City of Troutdale Building Division  
(503)674-7262  
[heather.jones@troutdaleoregon.gov](mailto:heather.jones@troutdaleoregon.gov)

**ATTACHED:** Residential Building Design Criteria

**From:** [Illya Gutsul](#)  
**To:** [Community Development](#)  
**Subject:** Notice of land use application  
**Date:** Monday, November 16, 2020 1:48:03 PM

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Hello,

My name is Illya Gutsul from, 4367 SE Topaz drive. I do not have any issues or complaints about the proposal and say that it's ok to change the property to how the owner desire.

**From:** [Lori Harding](#)  
**To:** [Community Development](#)  
**Subject:** LU-0017-2020-Aragon Shed  
**Date:** Sunday, November 22, 2020 6:43:16 PM

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We received the notice regarding a 2nd accessory structure on a neighbors property. As it is being presented as a COVID -19 self contained quarantine unit, it would also qualify as a 2nd home structure on this property. AKA a "tiny home".

I am not sure why we are getting this notice now since the structure is in the final stages of being completed. Troutdale has the ordinance for structure size and height and as outlined in our notice, so why are those dimensions not being followed? Will the TDC be changed to allow this size for all residents in Troutdale?

These are good neighbors and we will support this 2nd home on their property but will expect when we request to add a tiny home ( we have an adult son who would like to live in his own structure on our property) to our property within the next year to also be allowed to do so.

Thank you .

Sent from my iPad

**From:** [Shane-Cindi Steffanson](#)  
**To:** [Community Development](#)  
**Subject:** Notice of land use application - LU-0017-2020 -Aragon shed  
**Date:** Wednesday, November 18, 2020 9:48:23 AM

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To whom it may concern,

We have received the notice of Land Use Application (LU-0017-2020 – Aragon Shed) by mail. We live at 1022 SE Sweetbriar Road, Troutdale and are across the street from the shed location – we see directly into the back yard of this property – so the proposed shed is in our line of sight.

We have no objection to this shed. It is very pleasing in appearance and seems very practical.

If you have any further questions, please contact us by phone or email.

Shane and Cynthia Steffanson

[scsteffanson@live.com](mailto:scsteffanson@live.com)

503-312-5573

**From:** [Valentyn Budianu](#)  
**To:** [Community Development](#)  
**Date:** Sunday, November 29, 2020 10:23:56 PM

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We are 100% for what they are trying to build. More people should do things like this

We are from 4281 se viewpoint dr

We have nothing against it



**NARRATIVE: IN SUPPORT OF REQUEST FOR VARIANCE**  
**1158 SE WALTER CIRCLE TROUTDALE, OR 97060**

This is in support of my request for a variance to the side fence setback requirement for an existing structure. The intention is to build a permanent structure with the purpose of storage/shed and the other part a living space/tiny home. The proposed new structure is 11ft x 25ft x 12ft high. As such, based on the current code, the setback between the fence/property line and the west side of the proposed structure considering the size is 10ft. However, in an effort to provide a safe setback between the fence on the west side of the proposed structure, which would benefit both properties, I am requesting a variance to permit the building of the proposed structure on the site plan a few feet to the west. As shown on the attached site plan, I am requesting a variance on the west side of the structure to allow for a 4ft and 3ft setback.

The variance is necessary because:

1. The fence on the west side of the proposed structure is not a straight/perfect division. The fence is built slightly diagonal as shown on the site plan which makes it hard to make an even distance between the west side fence and the proposed structure. In this case, this variance is a request for a 4ft and 3ft setback.
2. Moving the structure 10ft away from the west side fence will be too close to our house and will have no adequate clearance in between the proposed structure and our home.
3. The purpose of the structure, aside from a storage space, it is also our intention to make one side a tiny house. I am a healthcare worker/front liner. I take care of patients with COVID-19. This structure will be a perfect venue to quarantine thus keeping my family safe and keeping them from contracting the disease. In this regard, down sizing the proposed structure will defeat the purpose of a habitable size/design. The variance is the minimum variance that will make possible the reasonable use of the land and structure.
4. Most importantly, what I would ask the board to consider is:
  - a. Even with the requested variance, it should not be injurious or detrimental to the other property or to the public. The structure will also be built with well-thought of materials and design to make sure the proposed structure is built with quality. The proposed structure will be built by licensed, well-trained and experienced workers.
  - b. The variance will not impair an adequate supply of light and air to the adjacent property and will not increase the hazard from fire or other dangers to the adjacent property.
  - c. The variance will not diminish or impair property values within the neighborhood.
  - d. The variance will not result to nuisance to the public and neighborhood.
5. The proposed style and structure of the building is in step with the existing neighborhood as evidenced by other properties within the neighborhood have existing accessory structure within their own property.
6. The proposed project/structure would be an improvement of the neighborhood and result in an overall increase in property value and tax base by improvement.

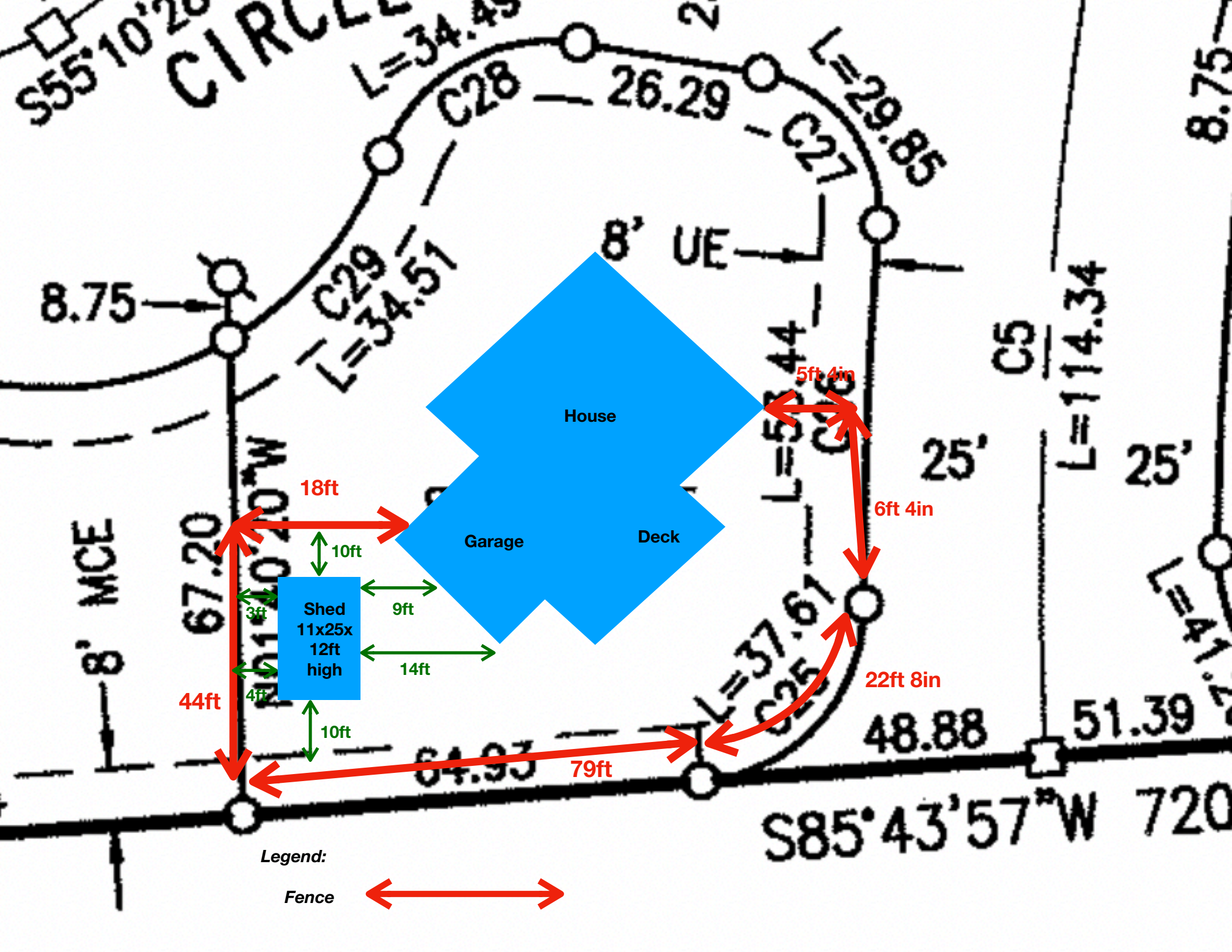
Thanks for your consideration.

  
Michael A. Aragon

  
Cherie Mae D. Aragon

10/5/2020







## Findings of Fact & Final Order

HEARING &  
DECISION DATE:

December 16, 2020

FILE NUMBER / NAME LU-0017-2020 Aragon Shed

APPLICATION TYPE Type III Variance

PROJECT APPLICANT Michael A. Aragon and Cherie Mae O. Aragon

PROPERTY OWNER Same as applicant

PROJECT LOCATION 1158 SE Walter Circle

TAX MAP / TAX LOT # 1S3E01DA -00100 / R256870060

LAND USE MAP Low Density Residential (LDR)

LAND USE ACTIVITY Residential

ZONING DISTRICT R-10 - Single Family Residential

OVERLAY DISTRICT None

### PROPOSAL

The Applicant is proposing an oversized accessory structure within the side setback of their property. The Applicant intends to use the structure for storage, a playhouse, and a space to quarantine due to COVID-19 if necessary. TDC 5.010.B.3 states that no accessory structure over 200 square feet in area or 10 feet in height shall be located within a side or rear yard setback. The proposed structure is 275 square feet in area, 12 feet in height, and within 3 feet of the property's west property line. The Applicant proposes this size as the minimum practical for the intended use, and this placement in order to maintain adequate clearance between the structure and house. Although the applicant refers to the structure as a "tiny home", it is not considered an accessory dwelling unit since they have confirmed there will be no kitchen facilities.

### PROCEDURE

This application underwent a Type III quasi-judicial procedure. [TDC 2.060 and 6.1300] This procedure requires a Public Hearing and Planning Commission review in order to be adopted. Planning Commission is the decision-making body for this application and may approve, approve with conditions, or deny this application. Nearby property owners, relevant review entities, and other stakeholders have been notified accordingly. [TDC 2.075 - 2.090]

### APPLICABLE CRITERIA

Listed below are governing standards that shall apply for this application:

- *Troutdale Development Code (TDC): Ch. 1* Introductory Provision; **Ch. 2** Procedures for Decision Making; **Sec. 3.020** Single-Family Residential (R-10); **Sec. 5.010** Accessory Structures; **Sec. 5.600** Erosion Control and Water Quality Standards; **Sec. 5.700** Stormwater Management; **Sec. 6.1300** Variance; **Ch. 17** General Provisions
- *Construction Standards for Public Works Facilities*
- *City of Troutdale Comprehensive Land Use Plan*
- Building and Fire Codes

### FINDINGS OF FACT

- Planning Commission received public testimony from Staff, the Applicant, and members of the public at the December 16, 2020 hearing.
- The Findings of Fact contained herein are derived from the specific decision criteria outlined in Sec. 6.1300 of the Troutdale Development Code and are hereby adopted as the Findings of Fact in this matter.
- The Final Order has been reached and **denial** of the application is hereby issued.

## FINDINGS OF FACT – VARIANCE [TDC 6.1325]

**6.1325 The Planning Commission may grant a variance under the Type III procedure if the request involves the expansion or reduction of a quantifiable provision in this Code by more than thirty percent (30%) if the Planning Commission determines that the criteria in Section 6.1315 of this Chapter are met:**

- A. Special circumstances or conditions including, but not limited to, lot size, lot shape, topography, or size or shape of building, apply to the property, development, or to the intended use and are not typical of the general conditions in the surrounding area; and**

FINDING: The shape of the lot is unusual, and according to GIS measurements, the house exceeds the front yard setback more than others in the same cul-de-sac (aside from those with prolonged driveways), resulting in a smaller rear yard. **The criterion is met.**

- B. The variance authorized will not be injurious to adjacent properties or the surrounding neighborhood or otherwise detrimental to the public welfare; and**

FINDING: The applicant proposed in their narrative that the variance “will not impair an adequate supply of light and air to the adjacent property”, “will not diminish or impair property values within the neighborhood”, and that the “proposed style and structure of the building is in step with the existing neighborhood”.

All comments received from nearby property owners supported the application and did not consider it to be injurious to adjacent properties or detrimental to the public welfare. Although the structure is only three feet from the west property line, there would be over 50 feet between the structure and the neighboring house to the west, due to the size of that property’s side yard. **The criterion is met.**

- C. The variance authorized will be consistent with the general purpose and intent of the provision from which a variance is sought; and**

FINDING: The intent of the provision is to prevent oversized structures from being located within setbacks. The Planning Commission was unable to determine that applicant has sought the minimum necessary size and location for their structure. The applicant had also expressed an unwillingness to reduce the size of the structure to conform to the standard within the Code. An arbitrary allowance for an oversized structure sets a precedent for case-by-case decision-making that is not within the general purpose and intent of this provision and of the Code as a whole. **The criterion is not met.**

- D. The variance is the minimum necessary to relieve a practical difficulty with full compliance and to avoid or minimize the resulting hardship.**

FINDING: The applicant has stated that the variance is the minimum necessary because moving the structure east to adhere to setback requirements would result in inadequate clearance between the accessory structure and house. Additionally, they state that downsizing the structure would defeat the purpose of using it for storage and a space for quarantining.

The site plan indicates nine feet between the house and accessory structure at the narrowest point. Shifting the structure outside the side setback would reduce the space in between to two feet. While this amount of space may be inadequate, it is unclear why the accessory structure could not be positioned somewhere in the middle when room was allowed to do so, lessening the variance required. Therefore, it is unclear whether the variance is the minimum necessary to relieve a practical difficulty.

Furthermore, the applicant has not sufficiently demonstrated that reducing the size of the structure (275 square feet and 12 feet in height) would result in a hardship. Household storage is regularly accommodated in smaller spaces and no medical/health testimony was provided demonstrating that reducing the size would constitute a hardship. The fact that the structure was partially constructed and would thus need to be constructed cannot be considered a hardship since no plan review was conducted or required permits were issued in advance in order to conform to the code. As such, **the criterion is not met.**

## FINAL ORDER & DECISION

### FINAL ORDER

Based upon the foregoing Findings of Fact, the Troutdale Planning Commission ***denies*** the Variance for Case File LU-0017-2020 (Aragon Shed) on the count of two (2) of the four (4) criteria failing to be satisfied as stated herein.

### DECISION

The Planning Commission hereby adopts these Findings of Fact as stated and has voted to deny the Application as described in the Final Order above. This decision may be appealed by the Applicant or any party contributing testimony within ten (10) days from the *Notice of Decision*, consistent with the provisions found in Chapter 2 of the Troutdale Development Code and the Oregon Revised Statutes.

**YEAS:**

**NAYS:**

**ABSTAINED:**

**ABSENT:**

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Tanney Staffenson, Planning Commission Chair

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Date



## MEMORANDUM

**DATE:** December 16, 2020  
**FROM:**  Chris Damgen, Community Development Director  
**TO:** Troutdale Planning Commission  
**CC:** Ray Young, City Manager; Sarah Skroch, City Clerk  
**SUBJECT:** Moving Planning Commission Regular Meetings

Staff is seeking Planning Commission feedback on whether to move regular meetings of the body **from the third Wednesday** of a given month **to the third Monday** of a given month.

The primary motivation for this request involves shortening the land use review timeframe for Type IV applications, which include map amendments, text amendments, and annexations. Because Planning Commission meets on Wednesdays and City Council meets on Tuesdays, an application must wait typically **20 to 27 days** between the initial public hearing on the third Wednesday and then the first reading/hearing at City Council, usually on the second Tuesday of the following month.

In moving meetings to Monday evening, the process could allow for an **eight (8) day** turnaround between the initial public hearing at Planning Commission and then the first reading/hearing at City Council. A Monday meeting allows for staff to edit and include items in a Council meeting agenda and packet, which are typically assembled on Tuesday and Wednesday. It also allows for a requisite seven (7) days between hearings to be consistent with state law.

This change will also better incorporate applications that are submitted in late spring and late fall, as City Council meetings typically occur only once a month in July, August, and December.

In order to change the regular meeting date, the bylaws of the Planning Commission (attached) will require to be amended in accordance with Section 15 of that document. Staff can prepare an amendment for consideration at the next regular meeting on Wednesday, January 20, 2021. If it is approved, the meeting change would take effect beginning with the March 2021 regular meeting (Monday, March 15, 2021 as opposed to Wednesday, March 17, 2021).

**ATTACHED:** Planning Commission Bylaws

## **TROUTDALE PLANNING COMMISSION BYLAWS AND RULES OF ORDER**

A seven-member Planning Commission has been established by Ordinance No. 609-94 which was enacted by the City Council pursuant to the authority of the home rule Charter of the City of Troutdale. The Council has also adopted other ordinances, resolutions, and policy statements relating to the organization, powers, duties, and procedures of the Commission. The Planning Commission is empowered to adopt and amend rules and regulations to govern the conduct of its business consistent with the Charter and ordinances of the City.

The Planning Commission does hereby adopt the following rules for conducting of business and to govern its commissioners, the same to be known as the Rule of the Planning Commission to-wit:

### **SECTION 1 – OFFICERS**

The presiding officers of the Commission shall be a chairman and vice-chairman. The Director of Community Development or the Directors' designee shall be the secretary of the Commission.

### **SECTION 2 – ELECTIONS**

- A. The chairman and vice-chairman shall be elected at the first meeting of the year for a term of one calendar year, and shall serve until their successors are elected. The term shall start upon election.
- B. If the office of the chairman becomes vacant, the vice-chairman shall succeed as chairman for the remainder of the year. A vice-chairman shall then be elected from the membership who shall serve the unexpired term of vice-chairman.
- C. Nominations shall be by oral motion. At the close of nominations, the comission shall vote by voice vote upon the names nominated for the office. If requested by any commissioner, written ballots shall be used for voting purposes.

### **SECTION 3 – DUTIES AND RESPONSIBILITIES OF OFFICERS**

- A. Chairman. Except as otherwise provided herein, the chairman shall have the duties and powers to:
  - 1. Preside over all deliberations and meetings of the Commission.
  - 2. Vote on all questions before the Commission.
  - 3. Call special meetings of the Commission in accordance with these bylaws.



4. Sign all documents pertaining to Commission action promptly after approval by the Commission. The power to sign documents may be delegated, in writing, to the secretary or the secretary's designee.
- B. Vice-Chairman. During the absence, disability, or disqualification of the chairman, the vice-chairman shall exercise or perform all the duties and be subject to all the responsibilities of the chairman.
- C. Secretary. The secretary shall:
1. Maintain an accurate, permanent, and complete record of all proceedings conducted before the Commission.
  2. Prepare the agenda and minutes for all Commission meetings.
  3. Give all notices required by law.
  4. Inform the Commission of correspondence relating to Commission business and conduct all correspondence of the Commission.
  5. Attend all meetings and hearings of the Commission or send a designee.
  6. Compile all required records and maintain the necessary files, indexes, maps, and plans.
  7. Perform such other duties for the Commission as are customary in that role or as may, from time to time, be required by the Commission.
- D. City Attorney. The City Attorney or a deputy shall be an ex-officio member of the Commission. The City Attorney shall provide legal assistance to the Commission when necessary on matters coming before it, prepare documents memorializing Commission action, and may question witnesses testifying before the Commission.

#### SECTION 4 – DUTIES AND RESPONSIBILITIES OF PLANNING COMMISSIONERS

Planning Commissioner Training. All newly appointed commissioners are required to attend a training session sponsored by the American Planning Association or the State of Oregon specifically designed for planning commissioners within 180 days of appointment.

#### SECTION 5 – ATTENDANCE

If a commissioner is unable to attend a meeting, he or she is expected to notify the chairman or secretary not later than four hours before the meeting. If any commissioner is absent from three consecutive meetings, upon majority vote of the Commission, that position shall be declared vacant. The Commission shall forward their action to the Mayor, who shall fill the vacant position in accordance with provisions of the ordinance governing boards and commissions.

## SECTION 6 – QUORUM

- A. At any meeting of the Commission, a quorum shall consist of four commissioners. No action shall be taken in the absence of a quorum except to adjourn the meeting and to continue public hearings to a time and place certain. For the purpose of forming a quorum, commissioners who have disqualified or excused themselves from participation in any matter shall be counted as present.
- B. In the event a quorum will not be present at any meeting, the secretary shall notify the commissioners in advance of that fact, and all items scheduled before the meeting shall be automatically continued to the next regularly scheduled meeting. The secretary shall post notice of the continuance on the door of the Council Chambers notifying the public of the continuance, and specifying the date and time when the matter will be before the Commission.

## SECTION 7 – MEETINGS OF THE COMMISSION

- A. Date of Regular Meeting. Regular meetings of the Planning Commission will be held in the Council Chambers, City Hall, 104 SE Kibling Avenue, Troutdale, Oregon, or at such other places as may be determined by the Commission, at 7:00 p.m. on the third Wednesday of each month, unless the Planning Commission cancels or reschedules the meeting.
- B. Second Meeting Per Month if Necessary. The Planning Commission may, if necessary to conduct business or continue a public hearing, schedule a second meeting on the fourth Wednesday of each month at the location indicated above.
- C. Time of Meetings. Regular sessions will convene at 7:00 p.m. Public hearings will be adjourned not later than 11:00 p.m., unless extended by consent of each and every commissioner present at the meeting.
- D. Special Meeting. Special meetings may be called by the chairman, or three or more commissioners. Appropriate notice shall be given to the remaining commissioners, the Community Development Director, and the public. The notice shall specify the meeting time and place, and a description of the business to be transacted at the meeting.
- E. Notice of Meetings. In addition to notice requirements for quasi-judicial land use hearings, public notice of all Commission meetings shall be given in a manner reasonably calculated to give actual notice to interested persons. The notice shall consist of the time and place of the meeting, and an agenda or summary of the subject matter to be considered.
  - 1. Notice shall be posted on a bulletin board in the City Hall and disseminated to the City Recorder, and other persons and organizations as provided by law. Notice may also be provided to persons and organizations known to have a special interest in matters to be considered by the Commission.



2. Notice shall be given not less than 48 hours in advance of a meeting; provided, however, that in case of an emergency, a meeting may be held upon such public notice as is appropriate in the circumstances.
3. Failure to provide notice as specified in this section shall not invalidate any decision or proceeding of the Commission.

## SECTION 8 – MINUTES

- A. The secretary shall prepare written minutes of all open regular and special meetings which shall be approved by the Planning Commission and made available for public inspection. All meetings shall be tape-recorded for the benefit of the City in the preparation of the minutes. Such tapes shall be retained for one year and may then be reused.
- B. Written minutes shall include the names of all commissioners, staff members, and general public present; all motions, orders, and other decisions proposed and their disposition; the results of all votes, with the vote of each commissioner by name unless the vote is unanimous; the substance of the discussion of any matter; and references to any documents discussed. Minutes shall be signed, after adoption by motion, by the presiding officer.
- C. Minutes shall be available to the public, upon request, within a reasonable time after a meeting. Reasonable fees may be charged (per Fees and Charges Resolution) for copies of minutes and other materials relating to Commission matters.
- D. Any commissioner not present at a meeting must abstain from voting on approval of the minutes of that meeting.

## SECTION 9 – ORDER OF BUSINESS

- A. Regular meetings shall be conducted in the following order of business, subject to the right of the chairman, with Commission consent, to alter the order of business.
  1. Call to Order and Roll Call.
  2. Approval of Minutes.
  3. Citizens Wishing to Speak on Non-Agenda Items. The purpose of this item is to allow citizens to present information or raise an issue regarding items not on the agenda. A time limit of five minutes per citizen shall apply. Citizen comment shall not exceed 30 minutes unless the Commission votes to suspend the rules.
  4. Public Hearings.
  5. Department Reports.

6. Commission Initiatives and Concerns.
  7. Adjournment.
- B. Action of the Commission is not limited to the prepared agenda.
  - C. The Commission shall not consider a new item after 10:00 p.m. unless there is a motion by the Commission to extend the time for the agenda item.

## SECTION 10 – CONDUCT OF BUSINESS

- A. Presiding Officer. The chairman shall preside at all meetings of the Commission. In the absence of the chairman, the vice-chairman shall preside.
- B. Absence of Presiding Officer. In the absence of the chairman and the vice-chairman, the Commission shall elect a commissioner to serve as presiding officer as its first order of business. Any commissioner may call a meeting to order for the purpose of electing a presiding officer.
- C. Submission of Presiding Officer. The presiding officer may appoint a temporary presiding officer to cover his or her temporary absence from the meeting by handing the gavel to the vice-chairman, or, if the vice-chairman is absent or serving as presiding officer, to any other commissioner.
- D. Motion Procedure. When a motion is moved and seconded, it shall be stated by the presiding officer for debate. A motion once made may not be withdrawn by the mover without the consent of the commissioner seconding it. No commissioner shall be allowed to speak more than once on a particular question until every other commissioner has had an opportunity to do so, or unless recognized by the presiding officer.
- E. Motion to Postpone or Table. A motion to postpone, specifying a time and date when the issue will be considered, may be debated and amended. A motion to table, without specifying a time and date when the issue will be considered, precludes all amendments or debate of the issue. If the motion is approved, consideration of the question may be resumed only upon a motion of a commissioner voting with the majority.
- F. Continuations. Any item before the Commission may be continued to a subsequent meeting. A motion to continue an item shall specify the date or event upon which continuation is to be based. If a matter which originally required public notice is continued without setting time and place certain, the public notification must be repeated when time and place are made certain. A list of continued items, showing the date at which an item was continued, or the event upon which continuance is based, shall be recorded and kept by the secretary and made available to the public.
- F. Remands by City Council. Unless otherwise provided by the City Council upon remand, any item remanded by the City Council for reconsideration by the Commission shall be

treated as a new item, and proceedings shall be provided for as if the matter were initially before the Commission.

- H. Absence of Commissioners During Evidentiary Hearing. A commissioner absent during the presentation of any evidence in a hearing may not participate in the deliberations or final determination regarding the matter of the hearing, unless he or she has reviewed the evidence received.
- I. Point of Order. Any commissioner may raise a point of order at any time and the presiding officer shall determine all points of order, subject to the right of any commissioner to appeal the decision to the full Commission.

## SECTION 11 – CONDUCT OF HEARING

- A. Scope of Rules. The rules contained in this section shall govern the conduct of quasi-judicial hearings held by the Commission including, but not limited to, those held pursuant to land use matters of the City. The presiding officer may apply any of these rules to public hearings, unless the ordinances of the City require otherwise or the Commission does not concur.
- B. Nature and General Conduct of Hearing.
  - 1. The Commission, when conducting any such hearing, shall afford persons entitled under the ordinances of the City, such as the land use ordinances, notice of hearing, an opportunity to be heard, to present and rebut evidence to an impartial tribunal, and to have a decision based on substantial evidence.
  - 2. No person in attendance shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing, and any person may be removed from the hearing for such conduct.
  - 3. No person offering testimony shall speak more than once without obtaining permission from the presiding officer.
  - 4. No person shall testify without first approaching the podium, receiving recognition from the presiding officer, and stating his or her name and residence or business address.
  - 5. No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence; provided, however, that reports and documents prepared by City personnel shall be deemed relevant, material, and the weight or competency thereof shall be determined by the Commission.
  - 6. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

7. The presiding officer, commissioners, City Attorney and, with the approval of the presiding officer, any other employee of the City may question and cross-examine any person who testifies.

C. Challenges to Impartiality.

1. A party to a quasi-judicial hearing, or a member of the Commission, may challenge the qualifications of a commissioner to participate in a quasi-judicial hearing or decision. A challenge shall identify the facts and for concluding that the member being challenged cannot make a fair and impartial decision due to bias, prejudgment, a direct and substantial personal interest in the outcome, or other similar circumstances.
    - a. Except for good cause shown, a written challenge shall be filed with the Director not less than 48 hours preceding the time set for the quasi-judicial hearing. The Director shall attempt to notify the member being challenged prior to the meeting.
    - b. The challenge shall be incorporated into the record of the hearing.
  2. No commissioner shall participate in a discussion or vote on the matter when, for any reason, the commissioner determines he or she cannot participate in the hearing and decision in an impartial manner.
- D. Disqualification. A commissioner shall not participate in the discussion on a matter in which any of the following have a direct or substantial financial interest: the commissioner or the commissioner's spouse, brother, sister, child, parent, father-in-law, or mother-in-law; any business in which the commissioner is then serving or has served within the previous two years; or any business with which the commissioner is negotiating for, or has an arrangement or understanding concerning, prospective partnership or employment.
- E. Abstention or Disqualification. Disqualification for reasons other than the commissioner's own judgment may be ordered by a majority of the commissioners present and voting. The commissioner who is the subject of the motion for disqualification may not vote on the motion.
- F. Conflicts of Interest. No commissioner shall participate in a hearing or decision if the commissioner has an actual conflict of interest as defined by state law, unless otherwise authorized by state law. A commissioner may participate in a land use hearing or decision if the commissioner has a potential conflict of interest as defined by state law. Commissioners shall disclose actual and potential conflicts of interest.

G. Rights of Disqualified Commissioners.

1. An abstaining or disqualified commissioner may be counted for purposes of forming a quorum. A commissioner who represents personal interest at a hearing may be do so only by physically joining the audience and vacating the seat on the hearing body. The commissioner shall make full disclosure of his/her status and position at the time of addressing the hearing body and shall not vote.
2. If all commissioners disqualify themselves, all commissioners present after stating their reasons for abstention or disqualification shall, by so doing, be requalified and proceed to resolve the issues.
3. Except for Type IV legislative hearings conducted by the governing body, a commissioner absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the commissioner has reviewed the evidence received.

H. Ex Parte Contacts. The general public has a right to have commissioners free from ex parte contacts in quasi-judicial hearings. It is recognized that a countervailing public right is free access to public officials on any matter. Therefore, commissioners shall reveal all ex parte contacts with regard to a matter that comes before the Commission at a quasi-judicial proceeding. If ex parte contacts have not impaired the commissioner's ability to make a fair and impartial decision based on the information presented during the quasi-judicial proceeding, the commissioner shall so state and may participate in the hearing and decision. Ex parte contacts with a commissioner shall not invalidate a final decision or action of the Commission, provided that the commissioner receiving the ex parte contact places the substance of the content of the ex parte communication in the record of the hearing, and makes a public announcement of the content of the communication and of the right of the parties to rebut the content of the first hearing where action will be considered or taken.

I. Order of Procedure. The presiding officer, in the conduct of the hearing, shall:

1. Commence the Hearing. Announce the nature and purpose of the hearing, and summarize the rules for the conduct of the hearing.
2. Call for Declaration of Ex Parte Contact, Conflict of Interest, or Bias.
  - a. Any commissioner announcing a decision to abstain shall identify the reasons for abstaining and shall not participate in discussion of the matter or vote on the matter.
  - b. Any commissioner whose participation has been challenged by allegations of bias, prejudice, personal interest, or partiality, or who has been

subject to significant ex parte or pre-hearing contact with proponents or opponents, may make a statement in response or in explanation, as part of his or her decision to participate in the hearing. This statement shall be subject to rebuttal by the proponent.

3. Staff Report. Summary of the nature of the matter, explanation of any graphic or pictorial displays which are a part of the record, summary of recommended findings and conditions of approval, comments from other board or agencies, and provide such other information as may be requested by the Commission.
4. Proponent's Case.
5. Opponent's Case.
6. Rebuttal Evidence. The presiding officer shall allow the proponent to offer rebuttal evidence and testimony.
7. Close of the Hearing and Deliberation by Commission. The presiding officer shall entertain a motion to conclude the hearing and the Commission shall deliberate the matter. The Commission shall state its findings, which may incorporate findings proposed by the proponent, opponents, staff, or the Commission, or may continue its deliberations to a subsequent meeting, the time and place of which must then be announced. The subsequent meeting shall be for the purpose of continued deliberation, or to consider proposed findings, and the presiding officer shall not allow additional submission of testimony, except upon approval by the Commission.
8. Decision on Issue.

## SECTION 12 – VOTING

- A. Requirement. The concurrence of a majority of those present is required to determine any matter before the Commission. Each commissioner present must vote on all questions before the Commission unless the commissioner has a conflict of interest which would disqualify the commissioner from voting. If a commissioner abstains, the reason for the abstention shall be entered in the record.
- B. Votes. All votes will be roll call votes by voice vote. All votes, whether positive, negative, or abstention, shall be recorded in the minutes.
- C. Tie Vote. In the case of a tie vote on any proposal, the proposal shall automatically be reconsidered and revoted. Notwithstanding the provisions of subsection (D) of this section, any commissioner may change his or her vote since there was no majority on the original vote. If the revote also results in a tie, the proposal shall be considered lost.

- D. Changing Vote. A commissioner may change his or her vote only if the action is taken immediately following the last vote cast, and only if the vote originally was with the majority. A commissioner shall not be allowed to withdraw an abstention.
- E. Motion to Reconsider. A motion to reconsider any action may be made only at the same meeting where the action was taken by a commissioner on the prevailing side of the question. Any commissioner may make a motion on the same question at any subsequent meeting.
- F. Restating Motion and Results of Vote. When a matter is called for a vote, the presiding officer shall, before a vote is taken, restate the motion and shall announce the decision of the Commission after such vote.
- G. Voting “in Absentia”. Voting “in absentia” or by proxy is not permitted.

### SECTION 13 – ETHICS CODE

Commissioners shall review and be bound by the requirements of the State Ethics Law dealing with use of public office for private financial gain. Commissioners shall give public notice of any potential conflict of interest and the notice will be reported in the meeting minutes. In addition to matters of financial interest, commissioners shall maintain the highest standards of ethical conduct and assure fair and equal treatment of all persons, claims, and transactions coming before the Commission.

### SECTION 14 – PUBLICATION OF BYLAWS

Publication and Distribution. A copy of these approved bylaws and rules of procedures shall be:

- A. Placed on record with the City Recorder and the secretary of the Commission.
- B. Available at each Commission meeting.
- C. Distributed to each commissioner.
- D. Available to the public for the cost of duplication.

### SECTION 15 – AMENDMENT OF BYLAWS AND RULES OF PROCEDURE

- A. These bylaws, rules, and regulations may be amended by approval of a majority of the commissioners at a regular or special meeting, provided notice of the proposed amendment is given at the preceding regular meeting, or at least five days written notice is delivered or mailed to the home address of each commissioner. The notice shall identify the section or sections of this resolution proposed to be amended.

- B. Notwithstanding subsection (A) of this subsection, any rule of procedure not required by law may be suspended temporarily at any meeting by majority vote of those commissioners present and voting, except the rule on reconsideration.
- C. All rules of order not herein provided for shall be determined in accordance with the latest edition of "Robert's Rules of Order Newly Revised". However, the Commission has an obligation to be as clear and simple in its procedure as possible.

Adopted by the Planning Commission of the City of Troutdale, Oregon at its regular meeting of March 15, 1995.

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Frank Grande, Chairman  
Troutdale Planning Commission

Amended by the Planning Commission at its regular meeting of December 15, 1999.

Amended by the Planning Commission at its regular meeting of July 18, 2001.