



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

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STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER

CASE FILE: LU 19-160020 NC AD
PC # 18-189843
REVIEW BY: Hearings Officer
WHEN: August 7, 2019 at 9:00 am
WHERE: 1900 SW 4th Ave., Suite 3000
Portland, OR 97201

It is important to submit all evidence to the Hearings Officer. City Council will not accept additional evidence if there is an appeal of this proposal.

BUREAU OF DEVELOPMENT SERVICES STAFF: MARGUERITE FEUERSANGER /
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GENERAL INFORMATION

Applicants: Scott Moore, Mackenzie
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smoore@mcknze.com 360|695|7879
Lee Leighton, Mackenzie
1515 SE Water Avenue, #100, Portland, OR 97214
lleighton@mcknze.com 503|224|9560

Property Owner: Pyco LLC
5949 NE Cully Blvd, Portland, OR 97218-3354

Contract Purchaser: Spencer Mayes, Bridge Development Partners LLC
10655 NE 4th St #210, Bellevue, WA 98004

Site Address: 7626-7800 NE Alberta Street

Legal Description: TL 200 13.41 ACRES, SECTION 20 1N 2E
Tax Account No.: R942201060
State ID No.: 1N2E20A 00200
Quarter Section: 2538

Neighborhood: Cully, contact David Sweet at 503-493-9434.
Business District: None
District Coalition: Central Northeast Neighbors, contact Sandra Lefrancois at 503- 823-2780.

Zoning: EG2h, General Employment 2 Zone, within the Aircraft Height Overlay Zone (h), and within the North Cully Plan District

Case Type: North Cully Development Review (NC) and Adjustment Review (AD)

Procedure: Type III, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

Proposal: The applicant proposes a new warehouse building with nearly 270,000 square feet in floor area and 105 parking spaces on the subject site. A tenant or user has not been identified. The warehouse building is 43 feet in height and is open from floor to ceiling. A loading dock with 42 loading bays is located along the north façade of the building. Other proposed improvements include access and emergency driveways, truck trailer storage, retaining walls, walkways and landscaping. The subject site is 13.41 acres in size and is currently an open field of groundcover vegetation. The site topography generally slopes steeply downward around the perimeter, but the central portion of the site is level. The elevation of the ground floor of the building will be between 10 and 20 feet lower than the elevation of surrounding properties.

Primary vehicle access to the site is via an existing driveway at NE Killingsworth Street (the site has only 65 feet of frontage along NE Killingsworth). An easement allows for shared access of the northerly portion of the driveway between the subject site and the adjacent site to the east. The subject site has 800 feet of frontage along NE Alberta Street; no vehicle access is proposed at this southern boundary. A pedestrian path is proposed to connect NE Alberta Street and the building's main entrance, to be used for employees and visitors to the site.

The site is within the North Cully Plan District (Zoning Code Chapter 33.560), which requires North Cully Development review (a Type III land use review procedure) for new development on the subject site. The applicant has provided written information and documents including a Traffic Impact Study, a Stormwater Report and a Noise Study to address the approval criteria of Section 33.560.050.

The EG2 zone requires a pedestrian path between the NE Alberta Street and the building main entrance. To ensure a direct connection for pedestrians, the standard requires in part that the length of the path not be more than 20 feet longer than the straight-line distance. In this case, the straight-line distance is 442 feet, and the path can be no longer than 462 feet. The proposed path length is 515 feet, which exceeds the maximum standard.

The site has a long "pole" portion at the north, which is 65 feet in width and 660 feet in length. The pole is used for the entry driveway. Per Section 33.266.130.G, driveways and parking areas require perimeter landscaping that is five feet in width and planted to the L2 standard of Chapter 33.248. In this case, a portion of the entry driveway at the east property line is shared with the adjacent property owner. The existing driveway includes perimeter landscaping but only 4.5 feet is contained on the subject site. The applicant proposes to retain 14 existing trees and plant two new trees along the east property line. To meet the L2 planting standard, however, at least 35 trees are required.

In summary, the applicant is requesting North Cully Development review (Type III procedure) and the following Adjustment reviews:

1. To increase the maximum length of the pedestrian path between NE Alberta Street and the building main entrance from 462 feet to 515 feet (Section 33.140.240.B.1); and
2. To reduce the minimum perimeter parking area setback from 5 feet to 4.5 feet along the east property line adjacent to the entry driveway (approximately 465 feet in length) and to reduce the minimum number of trees from 31 to 16 (Section 33.266.130.G.2)

Approval Criteria:

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

- Section 33.560.050(A through H), North Cully Development Review; and
- Section 33.805.040 (A through F), Adjustment Review.

Because one or more of the criteria listed above is an unacknowledged land use regulation, this proposal may also have to comply with applicable Statewide Planning Goals. The Statewide Planning Goals may be viewed at <https://www.oregon.gov/lcd/OP/Pages/Goals.aspx>.

Should the applicable city approval criteria become acknowledged during the course of the review, the proposal may no longer be required to demonstrate compliance with the Statewide Planning Goals.

ANALYSIS

Site and Vicinity: The subject site is 13.41 acres in size and is currently an open field of groundcover vegetation. The perimeter slopes steeply downward and the central portion of the site is level.

The site together with the adjacent 3.81-acre site to the west are both part of one ownership contained within 'Area 3' of the Cully Neighborhood Plan. The ownership parcel to the west has an active development proposal under review for 26 residential lots with public streets.

An industrial service/office development (Comcast) is located immediately northeast of this development. This development shares the entry driveway that is part of the subject site. Directly north of the site, are industrial uses. To the northwest, along NE 74th and NE 75th Avenues, development is primarily houses on separate lots, with duplexes and small apartments. South of the site at NE Alberta Street, development consists primarily of houses on separate lots. Farther west on NE Alberta is Sacajawea Park and a Head Start school.

Zoning: The site is within the General Employment 2 Zone (EG2), the Aircraft Landing overlay zone (h), and the North Cully Plan District. The purpose of the site's zoning follows:

General Employment. The General Employment zones (EG1 and EG2) implement the Mixed Employment map designation of the Comprehensive Plan. The zones allow a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zones is on industrial, industrially-related, and office uses, typically in a low-rise, flex-space development pattern. Retail uses are allowed but limited in intensity to maintain adequate employment development opportunities. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial/commercial areas.

Areas within the EG2 zone have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street. EG2 zoned lands will generally be on larger areas than those zoned EG1.

The **Aircraft Landing Overlay Zone** provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment.

The **North Cully Plan District** regulations are intended to ensure compatible redevelopment of certain large parcels as set forth in the Cully Neighborhood Plan. These

parcels historically were developed with gravel pits, a number of smaller, older single family dwellings and manufactured dwelling parks. Properties are intended to be developed in a cohesive pattern in order to encourage compatible development with the neighborhood to the south. North Cully Development review is a master plan review which will ensure compatibility and cohesive design.

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

LU 14-139487 AD Approval of an Adjustment to allow a total of 260 parking spaces on the site with development of Comcast Facility.

LU 15-136846 PR Approval of Property Line Adjustment to amend the specific project/site area for the Comcast Facility.

LU 15-136825 NCR Approval of North Cully Development Review for a new industrial service facility that includes a 50,400 square-foot warehouse building, customer parking, employee parking, fleet parking and accessory office use that will house sales, customer service and technical support functions (existing Comcast facility on adjacent parcel, northeast of the subject site).

Agency Review: A “Request for Response” was mailed **July 2, 2019**. The following Bureaus have responded with no issues or concerns regarding the requested land use reviews:

- The *Water Bureau* responded with no concerns and included technical details and comments for the building permit submittal (Exhibit E-3);
- *Portland Fire and Rescue* responded with no concerns and noted that at time of building permit review, all applicable Fire Code requirements must be met (Exhibit E- 4);
- The *Site Development Section of BDS* responded with no objections and provided information about site conditions and requirements for the building permit (Exhibit E-5);
- The *Urban Forestry Division of Portland Parks and Recreation* responded with no objections and provides a list of requirements that must be met at the time of building permit review (Exhibit E-6);
- The *Life Safety Plans Examiner of BDS* responded with no objections and provides general comments related to the building permit review (Exhibit E-7); and
- The *Bureau of Police* has no concerns about the proposal and states that the Police Bureau currently serves the site and will be able to provide services to the proposed development (Exhibit E-8).

The *Bureau of Environmental Services* responded with no objections to the proposal and notes that the proposed development will be subject to BES standards and requirements at the time of building permit review. Relevant comments are included in the findings under Approval Criterion 33.560.050.D. The response includes technical comments regarding building permit requirements. (Exhibit E-1).

The *Bureau of Transportation Engineering* responded with an assessment of adjacent streets and analysis of the transportation impacts of the proposal. Relevant comments are included in

the findings under Approval Criterion 33.560.050.D. The PBOT response also contains technical information for the applicant regarding requirements under Title 17 that must be met at the time of building permit review (Exhibit E-2).

The *Noise Control Officer of the Office of Community and Civic Life* reviewed the applicant's Noise study and provided comments and recommendations regarding noise issues associated with the proposal. These comments are relevant to the North Cully Development Review and are discussed in this report under Approval Criterion G of Section 33.560.050 (Exhibit E-9).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 15, 2019. Two written responses have been received. A nearby resident expressed concerns about increased parking, access on Alberta Street, operation hours, wetlands for migratory birds, noise restriction, setback and sound barriers, trees (Exhibit F-1). The Cully Association of Neighbors has concerns about the proposal's impact on the neighborhood regarding noise, late-night activity and glare (Exhibit F-2).

All issues raised in the comment letters that are relevant to the approval criteria are discussed in this report.

Regarding wetlands on the site, the approval criteria for the North Cully Development and Adjustment reviews do not address potential wetlands, environmentally sensitive areas or habitat areas. The site does not contain Environmental overlay zones and does not have delineated wetland areas.

ZONING CODE APPROVAL CRITERIA

NORTH CULLY DEVELOPMENT REVIEW

33.560.020 Where the Regulations Apply

The regulations for North Cully Development review apply to development within the North Cully Plan District. The boundaries are shown on Map 560-1 at the end of this chapter and on the official zoning map. New construction, building additions and land divisions within the Plan District are regulated by this chapter. Sites under 5 acres and improvements with a value less than \$230,700 and modifications to existing single family dwellings and trailer park facilities are exempt from review.

Staff response: The 13.41-acre site is within the North Cully Plan District boundaries shown on Map 560-1. Because the site is more than 5 acres in size, the proposal is subject to the regulations of Chapter 33.560 and requires North Cully Development Review.

33.560.030 Procedures

Requests for a North Cully Development review are processed through a Type III procedure.

Staff response: The applicant has applied for and the proposal is going through a Type III land use review procedure.

33.560.040 Submittal Requirements

All North Cully Development review applications must comply with 33.730.060, Application Requirements, and the following:

- A. General statement.** Applications must include a narrative which describes the development plans for the duration of the development plan and an explanation of how the proposed plan meets the Cully Neighborhood Plan.

Staff response: *The applicant's statements (A exhibits) include this information.*

- B. Boundaries of the use.** All application submittals must show the current boundaries and possible future boundaries of the development for the duration of the development plan. The boundaries must show all the adjacent properties owned or under the control of the applicant.

Staff response: *The applicant's Overall Site Plan, attached as Exhibit C-1, shows the site and adjacent property. Both properties are under one ownership. A land division with 26 residential lots and public streets is currently proposed and under review (# 19-130312 LDS) on the adjacent property to the west of the subject site.*

- C. Uses and functions.** All applications must include a description of present and proposed uses.

Staff response: *The applicant's statements (A exhibits) include this information.*

- D. Site plan.** All applications must include a site plan, showing the existing and proposed temporary and permanent buildings and other structures, the pedestrian and vehicular circulation system, parking areas, open spaces, and other improvements required by the zoning regulations. All development plans must show the paved areas, landscaping, physical constraints including soil or geologic instability or anomalies. Conceptual plans for possible future uses will be included when possible but will require an amendment to the approved plan if the location of facilities is changed or not included in the approval decision.

Staff response: *The applicant's statements (A exhibits) include this information.*

- E. Urban services.** All application submittals must show the location and size of urban services. Urban services include but are not limited to: water, stormwater, sewers, streets, fire hydrants and private utilities. Applicants should work with the affected service agency to resolve service concerns prior to application. Utilities should be underground wherever possible.

Staff response: *The applicant's Utility Plan is contained in Exhibit A-3. City service bureau staff have reviewed the applicant's urban services information and provided comments (E exhibits). Service bureau staff comments and requirements are summarized in this report.*

- F. Land divisions.** All application submittals must show how land divisions will not fragment the site or cause piecemeal development. A separate land division application will be required. Land divisions will not be approved prior to the North Cully Development review. A concurrent land division application is encouraged.

Staff response: *The proposal does not include a land division. (Note that the adjacent property to the west under the same ownership includes a land division with public street connections.)*

- G. Other reviews.** If other reviews are required, the North Cully Development review master plan must include information on any other discretionary reviews. If requested as part of the plan approval, all applicable criteria must be met.

Staff response: *The applicant has requested two Adjustment reviews, pertaining to parking area perimeter landscaping and the required pedestrian path between NE Alberta*

Street and the building's main entrance. The Adjustment reviews are reviewed concurrently with the North Cully Development review and are evaluated in this report.

H. Area south of NE Killingsworth. Excavation or mining and filling of sites located south of NE Killingsworth will terminate by December 2002. If excavation or filling activities are proposed to continue past this date, the site will be subject to North Cully Development review.

Staff response: *Mining no longer occurs on the site and is not proposed. Excavation or filling may occur during site preparation and construction for the anticipated warehouse development. The site is located south of NE Killingsworth Street and is subject to North Cully Development review. A Grading Plan is included in the applicant's statement, Exhibit A-3.*

33.560.050 Approval Criteria

All North Cully Development review applications must meet the following approval criteria.

A. The applicable goals and objectives of the adopted neighborhood plan will be met.

Findings: The Cully Neighborhood Plan was adopted by City Council in 1991. The Neighborhood Plan includes Policies and Objectives to help guide development and changes within the neighbor that will address issues and implement the vision statement for the Cully Neighborhood.

The Neighborhood Plan contains specific Policies and Objectives for the 'special focus area' which is identified as portions of prior gravel pits which have been filled over time and are anticipated to be redeveloped 'in the upcoming decades.' Page 28 of the Neighborhood Plan includes a map of the special focus area and identifies Areas 1-4 and notes the Objectives under Policy 4 that are applicable to each area. Additional Goals and Objectives within the Neighborhood Plan are relevant to the proposal and this criterion.

A staff analysis of the Cully Neighborhood Plan finds that Goals 1, 2, 4, 6, 7 and 8 are applicable to the proposed warehouse development. The applicant has also reviewed the Neighborhood Plan and offers the following assessment of these Goals and corresponding Objectives and Policies:

1. Neighborhood Identity

1A. Policy: Image. Develop a strong neighborhood identity that creates a sense of place and belonging for residents of the neighborhood and unifies residential, commercial, and industrial interests into a cooperative force for mutual improvement and advancement.

Applicant Response: The proposed development is an industrial use, which is consistent with the existing and desired mix of commercial and industrial businesses and residential uses reflected in the zoning throughout the area. The proposed development will occupy a large portion of one of the former Cully quarries and will provide an opportunity for neighborhood jobs. The building's setback far from NE Killingsworth Street and approximately 90' from NE Alberta Street, along with the associated landscaping buffers at the site's perimeter, will provide large areas of high-quality shrubs and tree canopy, which will reinforce the neighborhood's identity as an area of large lots with abundant vegetation.

1A-1 Objective: Promote a street tree-planting initiative to reinforce neighborhood identity.
Applicant Response: *The proposed development has been reviewed by the City's Parks and Recreation Bureau - Urban Forestry Division which has commented that adequate street trees are in place along the site's NE Alberta Street frontage and no additional street trees will be required.*

Staff Comment: *Urban Forestry's comments state that it appears that there will be no impact to street trees or planting spaces. However, requirements of Title 11, Trees, must be satisfied at each stage of development (Exhibit E-6).*

1A-2 Objective: Increase the visibility of the neighborhood.

Applicant Response: *The proposed development will increase the visibility of the Cully Neighborhood, as it will provide a new employment use at one of the vacant former Cully quarry sites and will provide vegetation that will enhance the large site's perimeter.*

1A-3 Objective: Promote the livability of the Cully neighborhood.

Applicant Response: *This objective is focused on neighborhood association and residential strategies. This objective does not apply. However, creating local jobs and improving a former quarry site will increase neighborhood livability.*

Staff Comment: *Livability is a broad term and encompasses many aspects of neighborhood life and activities such levels of traffic, availability of public services, and distance to grocery stores. For this proposal, the livability of nearby residents can be improved by minimizing adverse impacts of the activities of the warehouse loading activities. As discussed in Approval Criteria, 33.560.050.E and G, staff finds that the application does not contain sufficient information to confirm the proposal will be compatible with and not have adverse impacts on the surrounding residential area. This objective is not met.*

1A-4 Objective: Beautify the appearance of the Cully neighborhood.

Applicant Response: *The abundant landscaping that will accompany the proposed development will enhance the site and the overall neighborhood by adding buffers featuring trees, shrubs and groundcover along the entire site perimeter, particularly where the subject site is adjacent to residential zones. This objective is met.*

2. Neighborhood Livability and Safety

2A. Policy: Livability and Communication. Develop the communication, cooperation and commitment necessary among residential, commercial and industrial neighbors to nurture and sustain a vibrant, safe, diverse and stable community.

Applicant Response: *The proposed industrial development will contribute to safety in the Cully neighborhood by occupying a large, currently vacant tract of land between NE Killingsworth Street and NE Alberta Street. Vacant land can be illegally used for dumping and other undesirable activities; site development, active use, lighting and other factors tend to increase surveillance and curtail such inappropriate behavior.*

Staff Comment: *Staff does not disagree with applicant's response. However, uncertainty remains about the ability of the proposal to be compatible with nearby residential uses. And*

staff finds that the application does not satisfy all approval criteria for the North Cully Development Review. The City's Noise Control Officer offers conditions of approval that promote communication and cooperation between the warehouse development and nearby residents. These conditions are designed to ensure that the proposal is compatible with existing uses and they can be placed on an approval if the applicant can demonstrate provide additional information demonstrating that the approval criteria are met in full. This policy is not met.

28. Policy: Urban Character and Historic Preservation. Maintain and improve the quality and historic character of the neighborhood's existing physical environment while attracting compatible development.

Applicant Response: *The subject site is the location of a former quarry, which has been zoned to prioritize and foster employment and industrial uses, thus, the proposed industrial warehouse is compatible with the vision for the future, i.e., "attracting compatible development." The site is not an urbanized part of the Cully neighborhood. The proposed development does not eliminate any historic building or affect desirable features of the neighborhood's existing physical environment. For these reasons, the proposed development is consistent with this policy.*

2B-1 Objective: Maintain and improve the historic character of the neighborhood.

Applicant Response: *The subject site is not located in a significant historic part of the Cully neighborhood. However, the quarry was an historical feature of the landscape, and proposed development and re-use will preserve the site's size and shape.*

2B-3 Objective: Improve the appearance of the neighborhood by removing abandoned automobiles from the streets and abandoned appliances from private property.

Applicant Response: *Any items abandoned on the subject site will be removed prior to the beginning of site work. This objective is met.*

2B-4 Objective: Support the careful planning and design of new development and of redevelopment to enhance neighborhood livability.

Applicant Response: *The proposed new development is subject to a Type III North Cully Development Review, a land use review process requiring a public hearing. The project team attended a pre-application meeting to which the neighborhood association was invited and attended, so they were made aware of the project early in the process. The development review process requires the applicant to address the neighborhood plan policies and objectives, ensuring that the resulting development enhances neighborhood livability. In addition, as shown on the utility plan included with Exhibit C, all utility wires and lines to the building will be placed underground. This objective is met.*

Staff Comment: *The application has not demonstrated compliance with Approval Criteria E and G of the North Cully Development Review. These criteria relate directly to the proposal's effect on livability of nearby residents. This objective is not met.*

2C. Policy: Safety. Make the neighborhood safer and more cohesive through active involvement in crime prevention.

Applicant Response: The proposed development will result in a more active use of the currently vacant site. The vacant site creates opportunities for illegal dumping of waste and other illegal activities which may occur on large vacant sites. The proposed development will contribute to a safer and more cohesive neighborhood by bringing more business activity to the site and by providing neighborhood jobs.

4. Land Use and Recreation

4A. Policy: Protect Residential Areas. Maintain and solidify the residential character of the neighborhood, while promoting a supportive relationship among the residential, commercial and industrial interests of the neighborhood.

Applicant Response: The proposed development does not harm the character of adjacent residential areas. It provides industrial development and opportunities for employment for people living nearby, which strengthen the community.

Staff Comment: Refer to the findings under Criterion G of Section 33.560.050. Criterion G requires that the applicant demonstrate that the proposal will not cause adverse impacts on neighborhood livability. The applicant has not provided substantial information demonstrating that this criterion is met in full. Thus, this Policy is not met.

4B. Policy: Commercial and Industrial Uses. Maintain and encourage commercial and industrial uses which serve the neighborhood and provide stable employment.

Applicant Response: The proposed development is an industrial use which will serve the neighborhood by providing stable employment opportunities to people living nearby. A pedestrian connection between the building entrance and NE Alberta Street has been provided to encourage pedestrian access for site commuters and invited visitors.

4C. Policy: Redevelopment in the Focus Area. Encourage mixed industrial, commercial and new residential uses within the special focus area while providing a buffer or step-down in use between the heavier industrial uses to the north and the neighborhood to the south.

Applicant Response: The subject site in the southern portion of the Special Focus Area 3 south of NE Killingsworth. The low impact and well-buffered warehouse use will make a good functional and scale transition between the more intensive industrial uses to the north and the residential areas to the south.

Staff Comment: Refer to the findings under Criteria E and G of Section 33.560.050. The proposal provides a buffer at the south portion of the site. However, the applicant has not provided substantial information regarding potential impacts of noise and late-night operations and has not satisfied the approval criteria or this policy in full. Thus, this Policy is not met.

4C-2 Objective. South of NE Killingsworth: Minimize the impact of gravel pit on the neighborhood. Require all gravel pits south of NE Killingsworth be filled by the year 2002. After the year 2002, applicant or owners wishing to excavate and fill shall submit and

receive Master Plan approval insuring the excavation, fill and future redevelopment of the property are compatible with the adjacent properties. Require master plan review prior to land division.

Applicant Response: The subject site is located within Area 3 of the Cully Neighborhood Plan's Special Focus Area, south of NE Killingsworth Street. According to topographical surveys and a review of historical imagery referenced in the Geotechnical Report (Exhibit E) the subject site was mined for sand and gravel until the early 1990s and by 2000 had been filled in a reclamation effort. No land division is proposed. Master plan review is no longer required in this area because Portland Zoning Code Chapter 33.560, North Cully Development Review (a Type III procedure with public notice and a hearing) has superseded the master plan review requirement for these properties.

As indicated in the response to approval criterion E in Section 33.560.050, the proposed development on the subject site will be compatible with adjacent properties.

Staff Comment: Refer to the findings under Criteria E and G of Section 33.560.050. The applicant has not provided substantial information regarding compatibility with adjacent and nearby residential properties. Potential impacts of noise and late-night operations and has not satisfied the approval criteria or this policy in full. Thus, this Policy is not met.

4C-4 Objective. Encourage public acquisition of Area 3 and redevelopment regulated in conformance with a master plan to ensure compatibility with the surrounding neighborhood. Require master plan review prior to land divisions. Encourage social service and recreational facilities. Support park acquisition through redevelopment of the eastern portion of the site to residential, commercial and clean compatible industrial uses or mixed uses.

Applicant Response: The subject site is located within Area 3, a portion of which has been acquired for public use as Sacajawea Park in the eastern portion of the area, as indicated in the response to approval criterion H.2 in Section 33.560.050 above. It is possible that a non-profit affordable housing developer or another social service organization could develop the adjacent vacant residential zoned land to the west of the subject site. Master plan review no longer applies to properties within the Cully Neighborhood, as noted above in the response to Objective 4C-2. The North Cully Development Review process (Chapter 33.560) is now the forum for evaluating compatibility with the surrounding neighborhood. As indicated in the response to approval Criterion E in Section 33.560.050, the proposed development on the subject site is a warehouse use, which will be a "clean" industrial use, consistent with its zoning, that will be compatible with the greater Cully neighborhood because it is a low impact warehouse operating during normal business hours, with large landscaped buffers adjacent to residential areas, pedestrian connection, and no vehicle access to the site from NE Alberta Street.

Staff Comment: Refer to the findings under Criteria E and G of Section 33.560.050. The proposal provides a buffer at the south portion of the site. However, the applicant has not provided substantial information regarding potential impacts of noise and late-night

operations and has not satisfied the approval criteria or this policy in full. Thus, this Policy is not met.

6. Transportation

6A. Policy: Regional. Encourage the use of major arterials for regional traffic and separate this traffic from local traffic.

6A-1 Objective: Support the existing growth at the Airport for industrial and airport-related services without increasing traffic throughout the neighborhood.

Applicant Response: The site's access will be taken from the existing driveway on NE Killingsworth, which is an ODOT facility, and according to the City of Portland Transportation System Plan (TSP) it is a Regional Trafficway, the highest possible traffic classification for a street or roadway. All truck traffic shipping or receiving freight to or from the site will use NE Killingsworth. The site does not propose vehicle access from NE Alberta Street, south of the site, which the TSP classifies as a Local Service Traffic Street. See the Traffic Impact Study submitted and other information related to transportation system impacts.

6B. Policy: Arterials. Improve the neighborhood's system of streets to ensure an energy-efficient and safe network that minimizes traffic impacts on residential areas and business operations and encourages transit use.

6B-1 Objective: Support improvements to arterial streets such as sidewalks, street and pedestrian path completion on NE Cully and NE Columbia.

6B-3 Objective: Improve, maintain and encourage greater use of transit service and transit incentives in the Cully Neighborhood. Establish convenient and direct access from transit stops and centers to housing, commercial and recreational areas; and create mixed land uses that allow for convenient and direct pedestrian and bicycle trips.

Applicant Response: *The site does not have frontage along NE Killingsworth Street, the highest classification street, because the site is a "flag lot" situated behind the site to the north. According to the Pre-Application Conference Notes (Exhibit G), no frontage improvements are required for NE Killingsworth Street, nor are they required for NE Alberta Street to the south of the site. NE Alberta Street has been recently improved to a full cross-section meeting City standards. Two of the existing street trees on NE Alberta will be replaced as they are dead. See the Traffic Impact Study submitted as Exhibit F for any other information related to transportation system impacts. As shown on the site plan included with Exhibit C, the proposed pedestrian walkways provide efficient access to NE Killingsworth Street, and meet the City's pedestrian standards addressed in the response to section 33.140.230.B. These walkways will facilitate transit use by employees and other visitors to the site. See the Traffic Impact Study and Transportation Demand Management study submitted for any other information related to transit.*

Staff Response: *The Portland Bureau of Transportation (PBOT) has reviewed the proposal and provided comments (Exhibit E-2). PBOT confirms that neither right-of-way dedication or improvements are required. The applicant has requested an Adjustment to increase the maximum length of the required on-site pedestrian walkway. This request is reviewed in this report. PBOT has no objection to the proposal or to the Adjustment request for the pedestrian walkway.*

6C. Policy: Pedestrian, Bicycle Routes and Local Streets. Improve sidewalks and bicycle paths to provide a safe transportation route.

Applicant Response: NE Killingsworth Street and NE Alberta Street both have been improved to provide appropriate bicycle and pedestrian facilities. The site itself is not identified in the Plan as a necessary corridor for through north-south movements by the public. The site plan includes pedestrian connections from the site to both streets, providing safe and convenient pedestrian access for site commuters. See the Traffic Impact Statement submitted as Exhibit F for additional information related to the nearby pedestrian system.

Staff Response: The Portland Bureau of Transportation (PBOT) has reviewed the applicant's Transportation Impact Study (Exhibit A-6). PBOT concurs with the analysis of the study and has no objection to the proposal (Exhibit E-2).

7. Business and Industry

7A. Policy: Support Businesses. Improve the neighborhood as a location for business while enhancing it as a place to live and work.

7A-1 Objective: Improve the appearance of industrial and commercial areas of the neighborhood.

Applicant Response: The proposed development will enhance and update the appearance of the existing vacant site and surrounding area, which was previously mined for sand and gravel, and later filled in. As shown in the landscape plans included with this application in Exhibit C, the landscaping on site will be installed in conformance with the zoning code. Site landscaping will contribute to the broader neighborhood by providing generous landscaped buffers, including trees and shrubs along the property lines adjacent to residentially zoned land, and more landscaping than is required on the east and north property lines. All vehicle traffic will access the site from NE Killingsworth Street, maintaining NE Alberta Street as a quiet neighborhood street.

7A-4 Objective: Support the retention and expansion of existing businesses and employment opportunities and encourage new commercial uses which provide goods and services to the local residents and industrial activities to locate in appropriate zoned areas.

Applicant Response: As mentioned previously, the site will be developed with a Warehouse and Freight Movement user, including accessory offices, providing services for residents of the Cully Neighborhood and beyond. The proposed development is sited in an employment and industrial area generally surrounded by large lots occupied by industries such as warehouses, light manufacturing, auto repair, and fueling suppliers, as well as residential zoned vacant land to the west and existing residential uses to the south. The proposed warehouse use, with accessory office and parking and loading areas, is not unusual in this vicinity, does not detract from the urban form of the immediate area, and will be an improvement on the currently undeveloped nature of the site. As a new employer, the proposed warehouse use will provide additional employment opportunities in the District, consistent with this objective. This objective is met.

8. **Public Services**

8A. Policy: Water, Fire and Storm Sewers. Maintain the existing water and fire services and allow continued use of on-site disposal of storm water.

Applicant Response: Because the site is currently vacant and undeveloped, there is no water and fire suppression service to the site. The proposed utility plan shows that adequate water and fire suppression service will be provided by connecting to the water main in NE Alberta Street, supported by a letter from the Water Bureau stating that adequate Fire Flow is available. Due to the nature of the site as a former sand and gravel mining operation, which was later filled as part of the reclamation effort, it is not possible to provide on-site stormwater infiltration. Thus, a combination of on-site stormwater collection facilities will route stormwater to the stormwater system located in NE Killingsworth Street. This condition and a stormwater treatment plan are more thoroughly explained in the Stormwater Report.

8B. Policy: Sewer Cost and Performance. Provide sewers in the neighborhood in an efficient and low-cost manner.

8B-1 Objective: Minimize the financial impact of sewer installation on property owners.

8B-3Objective: Ensure that on-site sewer connections are done in a cost efficient and reliable manner.

8B.4Objective: Continue to monitor the installation and design efficiency to keep sewer costs within the right-of-way to a minimum while assuring maximum performance.

Applicant Response: According to the utility plan, sanitary sewer systems are already in place to serve the proposed development. The proposed development will connect to the sanitary sewermain located in NE Killingsworth Street, and the permitting and inspection process will ensure that improvements will meet City of Portland Bureau of Environmental Services standards.

In summary, staff reviewed the applicant's assessment above and finds that the proposal meets applicable Goals 6, 7 and 8. However, Goal 1, Neighborhood Identity, Goal 2, Neighborhood Livability and Safety, and Goal 4, Land Use and Recreation, are not met regarding neighborhood livability and compatibility. The proposal does not demonstrate there will be no adverse impacts on nearby residential properties. This criterion is not met.

B. The boundaries of the North Cully Development review application coincide with one of the subareas as shown in the adopted Cully Neighborhood Plan or adequate rationale is provided for any deviation.

Findings: The site is located within 'Special Focus Area: Area 3' which is also within the North Cully Plan District. This criterion is met.

C. The uses proposed are allowed in the base zone and overlay zones.

Findings: The site is within the General Employment 2 (EG2) base zone and Aircraft Height (h) overlay zone. The applicant proposes to develop a new warehouse facility that includes a

one-story building with 42 loading bays, 105 surface parking spaces, and trailer parking. Although the applicant has not identified a warehouse tenant and has not provided a floor plan, Warehouse and Freight Movement uses are allowed by right in the EG2 zone per Section 33.140.100. Note that at the time of building permit review for occupancy of the building, a tenant will be identified, and the corresponding Zoning Code use category must be one that is allowed in the base and overlay zones. Table 140-1 of Section 33.140.110 identifies the use categories that are allowed in the EG2 zone.

The 'h' overlay has no bearing on allowed uses as this overlay zone regulates height of buildings and vegetation to ensure safe airplane maneuvers.

For above reasons, this criterion is met.

- D.** Public services for water supply, streets, police and fire protection are capable of serving the proposed development and sanitary waste disposal, stormwater disposal systems, streets and traffic circulation meet the requirements of Title 17.

Findings:

Water supply The Water Bureau responded to this proposal and notes that water is available from an existing 16-inch water main in NE Killingsworth Street, and an 8-inch main in NE Alberta Street (Exhibit E-3).

Police The Police Bureau notes that police services are available to site and has no concerns with the proposal (Exhibit E-8).

Fire protection The Fire Bureau responded with no concerns about the proposal and notes that at time of building permit review, the development must meet applicable Fire Code requirements (Exhibit E-4).

Sanitary waste disposal and stormwater disposal systems The applicant submitted a Utility Plan (Exhibit A-3) and Preliminary Storm Drainage Calculations (Exhibit A-8). The Bureau of Environmental Services (BES) reviewed the applicant's proposal and submittal information for compliance with this criterion and Title 17 requirements (Exhibit E-1).

BES finds the applicant's proposed stormwater disposal system acceptable for reviewing the Cully Development Review application against this criterion relating to sanitary waste disposal and stormwater disposal. BES does not object to approval of the North Cully Development Review application. The proposed development will be subject to BES standards and requirements during the permit review process.

Streets, traffic circulation and Title 17 requirements The applicant submitted a Transportation Impact Study (TIS) (Exhibit A-6). The Portland Bureau of Transportation (PBOT) reviewed the TIS and provides the following information:

The applicant has provided a Transportation Impact Study (TIS) prepared by Mackenzie. PBOT staff has reviewed the TIS and concurs with the findings that transportation facilities are capable of serving the proposed development and meet the requirements of Title 17. Below is the conclusion of the TIS. PBOT has no objection to approval of the requested Adjustments.

The TIS evaluated both City of Portland and ODOT evaluation factors and concludes that the transportation system can support the proposed development without mitigation:

- The proposed development will meet ODOT mobility targets for all study area intersections under the 2020 post-development scenario.
- While the existing driveway spacing does not meet the OHP minimum access spacing standard, no new access to highway will be added by the proposed project.
- The existing driveway has adequate sight lines to meet both the stopping sight distance and intersection sight distance needed for all vehicles.
- The existing site driveway on NE Killingsworth Street can accommodate all truck movements and all loading will occur on site.
- The traffic contributed by the proposed development is very low compared to the existing traffic volumes and is not anticipated to alter crash patterns or increase the crash rate.
- The proposed development will not benefit or impact the pedestrian, bicycle, or transit system on NE Killingsworth Street.
- The limited connection to NE Alberta Street will serve pedestrians and bicycles seeking to access the site but will not add any traffic to the neighborhood streets.
- The proposed development will provide all parking and loading on site and will have no impacts to on-street parking or loading on the surrounding street system.

In addition to reviewing the TIS, PBOT has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.

Street Classifications

NE Killingsworth is classified as a Regional Trafficway, Major City Traffic Street, Major Transit Priority Street, City Bikeway, City Walkway, Priority Truck Street, and a Major Emergency Response Street. The frontage is improved a 16-ft wide sidewalk corridor that exceeds current City minimum standards. NE Killingsworth is a fee simple ODOT facility. Any improvements and access will be reviewed and permitted by ODOT. At this location, NE Alberta Street is classified as a City Bikeway and a Local Service Street for all other modes. The frontage is improved with a 12-ft sidewalk corridor that meets current City standards.

No dedications or street improvements will be required. The site's frontage on NE Alberta was improved with a Local Improvement District (LID) capital improvement project. Commercial vehicle access to the site is prohibited by the plan district. No commercial vehicle access is proposed.

The site's access is from NE Killingsworth. That frontage was improved as part the Comcast development and the subject site shares vehicle access.

PBOT has objection to approval of the proposal.

In summary of the above information, public services are available to serve the proposal and sanitary waste disposal, stormwater disposal systems, streets and traffic circulation meet the requirements of Title 17. This criterion is met.

- E.** The development plan shows a completely developed site which is compatible with the surrounding area. In a phased development, the code requirements will be met at each phase in development.

Findings: The proposal includes a shell warehouse building with 42 loading bays and 2 loading ramps, associated vehicle parking and circulation and trailer storage. The site plan (Exhibit C-2) depicts a completed development on the site and the applicant is not proposing phased development.

This criterion requires that the proposal be compatible with the surrounding area. For purposes of this criterion, the term “compatible” has the ordinary dictionary meaning, from the online Meriam-Webster dictionary: “capable of existing together in harmony.” The term “surrounding area” is defined as properties within 400 feet of the site’s perimeter. This distance is similar with the required public notification area for a Type III land use review and is reasonable as it captures properties adjacent to and across the street from the site.

The Zoning Map is attached (Exhibit B), staff visited the site and nearby properties, and the applicant provided a land use inventory of properties within 400 feet of the site and beyond (Exhibit A-3):

Directly North and East of site: Properties are zoned EG2 to the north and IG2 to the east. These properties are developed with a mix of uses, including industrial service, manufacturing, retail sales and service, and office uses. The EG2 and IG2 zones allow these uses outright except that size limits are placed on retail sales and service and office uses. Overall, the proposed warehouse use is considered compatible with these existing uses. An existing easement for shared driveway (Exhibit A-5) use with the Comcast facility reinforces this compatibility. The applicant is required to add perimeter screening fencing and landscaping along the north boundary, a typical zoning code requirement for parking and exterior storage areas adjacent to property lines.

Northwest/West and Southwest/West of site: Properties are zoned a mixture of Single Dwelling (R5 and R7) and Multi Dwelling (R2) Residential. Properties to the northwest and south are developed with residential uses. Southwest of the site is a parcel zoned Open Space (OS) and is developed with Sacajawea Park, a public park. The property to the west is currently vacant of structures but a 26-lot land division is currently proposed and being reviewed by the City. While the Residential zones prohibit warehouse uses, the EG2 zone requires a minimum 15-foot setback and landscape buffer to provide separate and screening between these somewhat incompatible uses. The applicant has provided the setback area and landscape area that meets these requirements. It is reasonable to conclude, in part, that the residential and warehouses uses are compatible if adequate separation and visual screening is provided. The applicant’s proposal includes mitigating features, such as landscaping, building and retaining walls, that will improve compatibility. The applicant states:

“Properties located within 600 feet of the south and west of the subject site’s boundary are primarily made up of park, single-story school and residential uses. As discussed in the response to criterion G . . . these uses are compatible with the proposed warehouse uses because the loading and other light industrial activities will be limited to the north side of the building and site, and oriented away from the more sensitive uses to the south and west.” (Exhibit A-1).

However, the proposed warehouse with 42 loading docks, 2 loading ramps, expansive vehicle circulation areas, and trailer storage, has the potential to exert adverse impacts on the surrounding area. In the statement above, the applicant does not consider existing residential properties to the northwest along NE 74th and NE 75th Avenues, which will not be shielded from loading activities by the proposed building. Also,

findings under Criterion G below conclude that the applicant has not provided sufficient evidence to demonstrate that there will be no adverse impacts of noise and late-night operations on the nearby residential zoned lands. Excessive noise and late-night operations of the proposed 42 loading docks can be incompatible with public use of Sacajawea Park as well. Because the potential impacts of the proposal are not well-documented in the application, staff cannot determine if the proposal will be compatible with the residential and park uses that are included in the surrounding area. This criterion is not met.

- F.** Any land division proposed as part of the application must facilitate the goals and objectives of the adopted Cully Neighborhood Plan and must not cause piecemeal or fragmented development.

Findings: The applicant does not propose a land division as part of this application. This criterion is not applicable.

- G.** The proposal must not adversely impact the livability of nearby residential zoned land due to noise, glare from lights, late-night operations, odors and litter.

Findings: Residential zoned land is located near or adjacent to the site as follows:

- northwest of the site along NE 74th and NE 75th Avenues (R2, a multi-dwelling residential zone; area is developed with primarily with houses, duplexes, apartments);
- west of the site (R5, a single-dwelling residential zone; currently vacant but proposed for 26 residential lots); and
- south and southwest (R7, a single-dwelling residential zone; area is developed primarily with houses)

Noise and Late-Night Operations

The proposal is for a 270,000 square-foot warehouse building with 42 loading docks and two loading ramps along the north building wall. The northerly loading and truck circulation areas are as close as 150 feet to residential zoned property to the west. Site topographic conditions may help reduce noise from the facility in that the location of the building footprint is between 10.5 feet and 14 feet lower than adjacent residential property. Because of this change in elevation, retaining walls will be constructed around the site's west, south and east perimeter. Also, part of the proposed building is located between the loading ramps/docks and the west property line.

The applicant submitted a Site Noise Study (Exhibit A-9). The applicant also provided responses to questions from staff regarding the study scope (pages 1-3 of July 8 letter contained in Exhibit A-3). Anticipated operating hours of the warehouse facility is 7 am to 4 pm daily and office hours 8 am to 5 pm daily. The study evaluated potential noise levels associated with truck transit, truck start, truck idle, air brakes, truck doors, pallet jacks and pallet drag/drop. Conclusions of the study describe the site elements, such as the location of loading docks on the north side of building, the significant separation distance between the loading areas and residential properties, the new retaining walls and portions of buildings that block the line of sight, which will significantly help reduce noise impacts on the west and south residential receiving properties.

Overall, the applicant's submittal does not contain sufficient evidence for staff to conclude that the proposal will not have adverse impacts on livability of nearby residential lands. The following aspects of the applicant's submittal are of importance:

- A "worst-case" scenario for the site must be evaluated. A tenant for the proposed warehouse building has not been identified. As such, any noise analysis should consider a "worst-case" scenario, meaning that the most intensive noise-producing activities should be considered and evaluated. The applicant's noise study:
 1. did not identify the size or type of truck evaluated and did not consider the use of refrigerated trucks, which can be louder than diesel trucks;
 2. did not consider the potential for more than one truck idling or operating at any one time;
 3. considered only "minimal" truck activity during night-time and early morning hours; and
 4. overestimated the separation distances (linear feet) between truck activities and the residential zones to the west and northwest of the site.
- The Noise Study provides a professional engineer's evaluation of potential noise impacts relating to the City's noise limits of Title 18, which is essential for identifying significant noise impacts. This criterion, however, requires the applicant to demonstrate that the proposal will not adversely impact the livability of nearby residential zoned land.

The City's Noise Control Officer reviewed the applicant's noise study and provided comments and recommendations (Exhibit E-9). The Officer finds the following potential impacts of primary importance for residential livability. These issues were not considered in the applicant's written narrative or in the Noise Study:

1. **Loading and unloading noises associated with moving materials out of and into trucks**, such as:
 - a. banging and crashing sounds, operation of forklifts;
 - b. tail gate or lift gate noises; and
 - c. rolling cart or dolly related noises over concrete joints or up and down varying surfaces.
2. **Noise associated with backing vehicles into the facility** and the nature of the padding materials that are used to absorb the trucks as they hit the loading docks. *Possible mitigation includes: eliminating direct metal contact with loading bay materials that are unpadded; and the facility should require use of the quiet back-up beeper methodologies for all trucks using this facility.*
3. **Excessive sound levels from poorly planned heating and cooling equipment.**
4. **Potential concerns with refrigeration and compressor noise**, if cooled products are maintained at the facility.
5. **On-site exterior repair or tire changes to trucks**, including the potential use of pneumatic tools.
6. **Exterior sound systems** to call employees to office locations with a large facility of this size.
7. **Excessive idling with no clear limitations or controls** outlined by the operator.

The Noise Control Officer notes that warehouse developments (with a similar size and centralized location to the proposal) will rarely limit their operations to daytime hours, as anticipated by the applicant, but are likely to operate around the clock, up to 24 four hours per day. Further, the Officer states that noise problems from warehouses “. . . can be difficult to resolve after the location is up and operating. It is also far more expensive for operators to fix noise issues after a building and site is developed.” With these concerns in mind, as well as the issues identified with the applicant’s information and evaluation above, staff cannot reasonably conclude that the proposal will not adversely impact the livability of nearby residential zoned lands. This criterion is not met for noise and late-night operations.

Note that if additional information is submitted by the applicant that shows compliance with this and other relevant approval criteria, the Noise Control Officer offers consideration of the following draft conditions of approval that will foster communication and coordinating between the warehouse user and nearby residents. These draft conditions are not intended to be applied to the proposal as it stands currently but provide concepts to consider. It is expected that the concepts of these draft conditions will be refined after new information from the applicant is reviewed:

- 1) *Before final sign off by the City of Portland, the applicant shall utilize an Acoustical Engineer or engineering firm licensed by the State of Oregon as an Acoustical Engineer. The firm or engineer shall return to the site after all the anticipated build out of the space is complete and set up a sound level meter for a period of two weeks in a majority of dry weather conditions, preferably in the summer months, to measure true peak trucking and warehousing operations or compliance with Title 18.*

The specific goal of this compliance check measurement is to collect data at a point in time when the temperature is anticipated to be warmer and therefore, the windows of area residences are anticipated to be opened. If the timing of the build-out means the project’s completion is in the rainy weather season, the Noise Control Officer will be willing to look at measurements completed in the rainy weather season with specific requirements outlined at the time by the Noise Control Officer.

- 2) *Prior to approval, the acoustical consulting firm, or operator, or owner shall notify all neighbors within 750 feet of the site of the final compliance efforts they are undertaking to ensure there is minimal impact on the community. They should include a clear record of how they intend to address the first 6 items labeled numbers 1 through 6 above. The community notice will include how they intend to maintain compliance with the guidelines and limitations of Title 18, now and into the future.*
- 3) *The applicant shall develop an approval condition, in conjunction with City staff, for limits on the duration of time trucks can idle at the facility. This standard shall not be longer than 5 minutes maximum time for any individual truck. Trucks shall not be restarted after a break in time, except to promptly leave the facility. This idling standard shall be incorporated and agreed to in the decision from staff.*

Glare from lights

The applicant submitted a Photometric Plan (Exhibit C-4). The plan evaluates the glare produced by proposed exterior light fixture models which will be placed on the building’s exterior facades. Measurements are identified around the perimeter of the site show that

the expected glare will not exceed the maximum glare standard of 0.5 candles of light, contained in Section 33.262.080, on Residential zone properties. Potential glare impacts are reduced somewhat based on the site condition of the building's grade level being approximately 10-15 feet lower than the grade of the surrounding residential properties. However, because the exterior light fixtures are placed high on the building façade – at 30 feet above the building's grade level, they will cast higher light levels or intensity on neighboring properties. To ensure there are minimal adverse glare impacts on residential zoned lands to the northwest/west and southwest/south of the site, a condition of approval is needed, if this application is approved, that requires the light fixtures be placed on the north, west and south building façades at locations not to exceed 20 feet from the adjacent grade. In consideration of the lower grade of the building, the condition would minimize glare impacts. With the above condition and the condition that the applicant install the selected or similar light fixture models shown in Exhibit C-4, this criterion is met.

Odors and litter

The proposed use and development is not anticipated to result in nuisance odors. A screened recycling/garbage area is proposed on the north portion of the site. This criterion is met for odor and litter.

In summary, the proposal does not demonstrate there will be no adverse impacts on the livability of nearby residential zoned land due to noise and late-night operations. This criterion is not met.

H. In addition to the approval criteria listed above, development south of NE Killingsworth will meet the following approval criteria:

1. Vehicular access will be prohibited from NE Alberta through the area. A buffer will be established along the southern portion of the area if commercial or industrial uses are proposed along the southern edge. Pedestrian access from NE Alberta will be provided.

Findings: The subject site is south of NE Killingsworth Street and is therefore subject to criterion H.

The site has nearly 800 feet of frontage along NE Alberta Street. Vehicle access from NE Alberta into or through the site is not proposed. To ensure this requirement continues to be met over time, a condition is recommended, should this application be approved, that prohibits vehicular access to and from the site from NE Alberta Street.

The proposed building will be set back 70 feet from the street property line along NE Alberta Street. The applicant proposes a landscaped buffer area, 31 feet in depth, that is parallel with the entire length of this street property line (Exhibit C-3). Landscaping consisting of trees, shrubs and ground cover, is proposed within the buffer area (landscaping is proposed to meet the L1 landscape standard of Chapter 33.248). A retaining wall is located at the northerly side of the landscaped buffer. North of the 31-foot buffer area and retaining wall, an additional 10 feet of landscaping to the L2 standard is proposed. This 10-foot landscape area provides additional buffer area to meet this criterion but is also a required perimeter landscaping for the site's parking area and driveways. Trees, low evergreen shrubs and groundcover will be added to this 10-foot landscape area. Remaining features within the 70-foot building setback include a 20-foot-wide vehicular driveway and landscaping adjacent to the building.

A pedestrian path is proposed at the southeast corner of the site. The path runs parallel to the east building wall and connects the public sidewalk within NE Alberta Street and the building main entrance at the north building wall and provides the pedestrian access required by this part of the criterion. The path may be gated at the entry and is designed to be used by visitors and employees of the site. It does not provide, and this criterion does not require it to provide a through-pedestrian connection to NE Killingsworth.

Because of the above proposed features, and with the recommended condition of approval, this part of the criterion is met.

2. Development of the eastern portion of the area will support park acquisition and expansion of Sacajawea Park with service and recreational facilities.

Findings: The prior land use decision for a North Cully Development Review for the Comcast site (15-136825 NCR) provides information about the acquisition and development of the park:

“A significant portion of the site was donated to the City in order to expand Sacajawea Park as part of a prior land use review, LU 03-177121 CP ZC. The applicant notes the following:

3.36 acres of land in Area 3 were donated to the City of Portland in 2006 to support expansion of Sacajawea Park. In 2009, pursuant to permit number 2009-158075-000-00-SD, this additional land was developed to include a new path, dog park, and landscaping. The expansion of Sacajawea Park and development of additional recreational facilities has already occurred.”

Sacajawea Park has been developed and is a functioning city park including grass and seating areas, pathways, a fenced dog park and landscaping. It is approximately 5 acres in area and located southwest of the site. This criterion is met.

3. Development will include a mixture of uses such as housing and commercial or light industrial.

Findings: A prior Comprehensive Plan Map Amendment (LU 03-177121 CP ZC) modified the previous R7 zoning to a mix of EG2h, R5h, and OS zoning for the subject site and adjacent parcels. The rezoning has encouraged and resulted in a mix of uses. Vacant land zoned R5h located west of the site is currently proposed to be divided into 26 residential lots and eventually developed with single dwelling housing. Sacajawea Park has been expanded and occupies an approximate 5-acre site. The site to the northeast has been developed as an Industrial Service and accessory office (Comcast facility).

The current mixture of uses on parcels surrounding the site as well as the proposed Warehouse use are allowed outright in the corresponding zones. This criterion is met.

ADJUSTMENT REVIEW

33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review

process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

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

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

Findings: The applicant requests two Adjustment reviews:

1. To increase the maximum length of the pedestrian path between NE Alberta Street and the building main entrance from 462 feet to 515 feet (Section 33.140.240.B.1); and
2. To reduce the minimum perimeter parking area setback from 5 feet to 4.5 feet along the east property line adjacent to the entry driveway (approximately 465 feet in length) and to reduce the minimum number of trees from 31 to 16 (Section 33.266.130.G.2).

Adjustment 1 The purpose for the pedestrian standards is stated in Zoning Code Section 33.140.240.A:

The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in developments in the employment zones. They ensure a direct pedestrian connection between abutting streets and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible.

From NE Alberta Street, the proposed path provides a straight-line distance for approximately 450 feet, as it provides stairs down the slope and then runs parallel to the east building wall. It turns at a 90-degree angle to the west for 60 feet, following the northeast corner of the building to the main entrance that faces north. The onsite pedestrian system will meet all other relevant standards of width, lighting and required materials, ensuring a usable system. The proximity to landscaping will provide an attractive path. The pedestrian path is considered direct for such a large site and building. The applicant notes that while the length of the path is longer than the standard allows, it is only 112 percent of a straight-line distance, less than the maximum 120 percent allowed by the standard.

A gate that is six feet in height and is no more than 50 percent sight-obscuring is proposed at the NE Alberta entry. The gate provides security for the development but because it allows views into the site and is relatively low in height and made of durable materials, contributes to a safe and attractive pedestrian path to the building entrance.

The warehouse development is oriented to the site frontage along NE Killingsworth. The development is large in scale with 42 loading docks at the north elevation. Because of the vehicle orientation toward NE Killingsworth, it follows that the applicant wants the building entrance to be visible. The proposed on-site pedestrian system will also provide a pedestrian path from the main entrance along the west side of the entry drive to NE Killingsworth. Note that part of this path was developed as part of the Comcast site. For the proposal, this path is required, but it does not need to be straight-line path. Because it

will serve the subject site, it must be designed to meet all applicable pedestrian standards for width, materials, and lighting (as identified in Section 33.140.240).

For the reasons discussed above, this criterion is met for Adjustment 1.

Adjustment 2 The purpose for the perimeter parking area setbacks and landscaping is found in Zoning Code Section 33.266.130.A. Only the purpose statements relevant to this Adjustment are cited below:

The development standards promote vehicle areas that are safe and attractive for motorists and pedestrians.

The setback and landscaping standards:

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

The applicant requests this Adjustment only for the east perimeter entry drive portion of the site leading from NE Killingsworth Street, which was developed in conjunction with the adjacent Comcast facility. Trees and other landscaping were planted along the east side of the entry drive. However, the width of the perimeter landscaping area was developed with only 4.5 feet of landscaping instead of the required 5 feet, and an insufficient number of trees were planted. The site has an easement agreement with the Comcast site for joint use of the existing entry driveway (Exhibit A-5) and thus, the proposed development must meet current standards.

In response to this Adjustment, the applicant states:

The proposed adjustment to the width of the required L2 landscaped area on the east property line along the access driveway is to reduce the width from 5' to 4.5' so that the existing planter can be preserved rather than removed and replaced. Notably at this location, there is an additional approximately 5' of the same planter just east of the property line on the adjacent property, which will soften the appearance of the driveway. As a result, the requested 6" reduction is minimal and will not compromise the overall appearance of the driveway area.

The adjustment for a reduction in the number of small trees from 31 to 16 will not negatively affect the appearance of the driveway because there are currently 14 cherry trees in place, which will be retained. Based upon the current caliper size, these trees are approximately five years old and therefore, additional trees cannot be planted in between them to increase tree density because the mature root system of the existing trees would be irrevocably damaged. The maturity and wide spread of the existing trees' canopy along with the two new trees provides appropriate softening for the 41' driveway, which is not an entire parking area with stalls and a drive aisle, but effectively a long, narrow driveway corridor.

The proposed adjustment only applies to the L2 landscaped setback along the east property line. The residential development is to the west of the site, and the L2 landscaped setback along the west property line meets the standard. (Exhibit A-3).

Staff visited the site and found the existing trees to be healthy and based on the applicant's above statement, finds that the proposal meets the applicable purposes for this Adjustment. This criterion is met.

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

Findings: The site is in the EG2 zone. PBOT notes that the classification of the adjacent street, NE Killingworth, “. . . is a Regional Trafficway, Major City Traffic Street, Major Transit Priority Street, City Bikeway, City Walkway, Priority Truck Street, and a Major Emergency Response Street. The frontage is improved a 16-ft wide sidewalk corridor that exceeds current City minimum standards. NE Killingworth is a fee simple ODOT facility. Any improvements and access will be reviewed and permitted by ODOT.” (Exhibit E-2).

The site has 65 feet of frontage along NE Killingsworth (for the entry drive, pedestrian path and landscaping). PBOT supports the proposed Adjustments and finds that the proposed warehouse use is consistent with the classifications of NE Killingsworth.

The Zoning Code defines ‘desired character’ as:

***Desired Character.** The preferred and envisioned character (usually of an area) based on the purpose statement or character statement of the base zone, overlay zone, or plan district. It also includes the preferred and envisioned character based on any adopted area plans or design guidelines for an area.*

The findings below consider the purpose statement of the EG base zone and the Cully Neighborhood Plan.

Purpose statement of the General Employment base zone is as follows (Section 33.140.030.A):

The General Employment zones implement the Mixed Employment map designation of the Comprehensive Plan. The zones allow a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zones is on industrial, industrially-related, and office uses, typically in a low-rise, flex-space development pattern. Retail uses are allowed but limited in intensity to maintain adequate employment development opportunities. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial/commercial areas.

The proposal is generally consistent with this purpose statement because the proposed warehouse use is allowed outright in the EG2 zone. The pedestrian connection will be designed with associated landscaping and lighting, and the perimeter landscaping along the

east portion of the entry drive will retain existing trees and combined with adjacent landscaped areas.

The second sentence is pertinent to this proposal as it relates to providing employment opportunities without potential conflicts from interspersed residential uses. As discussed in this report, staff finds that the proposal does not meet the Approval Criteria E and G of Section 33.560.050 (North Cully Development Review) mainly due to concerns about noise and late-night activity. These are significant potential adverse impacts on neighborhood livability and incompatibility mainly regarding the activities associated with 42 loading docks. Because of this, staff is recommending that the proposal be denied. Nevertheless, for this Adjustment criterion, staff finds that the Adjustments, because they involve the east pedestrian path and driveway landscaping, do not relate to the overall impacts of the proposal's activities. This part of the criterion is met.

The Cully Neighborhood Plan was adopted in 1991 and is relevant to this criterion. In this report under Approval Criterion A of Section 33.560.050 for the North Cully Development Review, the proposal is reviewed for compliance with the Plan's applicable goals, policies and objectives. Staff finds that Goals 1, 2 and 4 are not met in full due to unresolved concerns of potential significant impacts on nearby residential zoned land. The concerns involve noise and late-night activities associated with the proposed 42 loading docks and associated loading activity. However, the Adjustments regard only the length of the pedestrian connection the entry drive setback and landscaping. The impact of these Adjustment is minimal and granting the Adjustments is not found to be inconsistent with the desired character of the area, as defined above. This part of the criterion is met.

In summary, the findings above conclude that the proposal meets the purpose statement of the EG zone and the adopted Cully Neighborhood Plan. This criterion is met.

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

Findings: Two Adjustments are requested. The overall purpose of the EG2 zone is cited in Adjustment Criterion B above. The proposal, including the requested Adjustments, is consistent with the overall purpose as the requested Adjustments are minimal in impact and represent minor features of this large 13.41-acre site and associated warehouse development. This criterion is met.

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

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

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

Findings: The proposed Adjustments are relatively minor in scale. Each Adjustment request seeks to reduce portions of a development standard. The length of the pedestrian path will be less than the maximum length of 120 percent of a straight-line distance, and while the required perimeter landscaping will be less than requirement along the east portion of the entry drive, the full 5 feet of L2 perimeter landscaping will be met for all other applicable areas of the site.

The applicant's statements in response to the Adjustment approval criteria (Exhibit A-3) provide detailed and sound reasons for granting the Adjustments. As such, staff finds no resulting impacts from the requested Adjustments. This criterion is met.

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

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

OREGON STATEWIDE PLANNING GOALS

Because one or more of the criteria listed above is an unacknowledged land use regulation, this proposal may also have to comply with applicable Statewide Planning Goals. The Statewide Planning Goals may be viewed at <https://www.oregon.gov/lcd/OP/Pages/Goals.aspx>.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. This application was submitted on May 3, 2019 and determined to be complete on June 16, 2019. Should the applicable city approval criteria become acknowledged during the course of the review, the proposal may no longer be required to demonstrate compliance with the Statewide Planning Goals.

Following is a list of the Statewide Planning Goals and associated findings.

Goal 1: Citizen Involvement

Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a Committee for Citizen Involvement (CCI) to monitor and encourage public participation in planning.

Findings: The City of Portland maintains an extensive citizen involvement program which complies with all relevant aspects of Goal 1, including specific requirements in Zoning Code Chapter 33.730 for public notice of land use review applications that seek public comment on proposals. There are opportunities for the public to testify at a local hearing on land use proposals for Type III land use review applications. Because this is a Type III application, a written notice seeking comments on the proposal and notice of the public hearing was mailed to property owners and tenants within 400 feet of the site, and to recognized organizations in which the site is located and recognized organizations within 1,000 of the site. Additionally, the site was posted with a notice describing the proposal and announcing the public hearing.

The public notice requirements for this application have been and will continue to be met, and nothing about this proposal affects the City's ongoing compliance with Goal 1. Therefore, the proposal is consistent with this goal.

Goal 2: Land Use Planning

Findings: Compliance with Goal 2 is achieved, in part, through the City's comprehensive planning process and land use regulations. For quasi-judicial proposals, Goal 2 requires that the decision be supported by an adequate factual base, which means it must be supported by substantial evidence in the record. As discussed earlier in the findings that respond to the relevant approval criteria contained in the Portland Zoning Code, the proposal does not comply with all the applicable regulations. As a result, the proposal does not meet Goal 2.

Goal 3: Agricultural lands

Goal 3 defines "agricultural lands," and requires counties to inventory such lands and to "preserve and maintain" them through farm zoning. Details on the uses allowed in farm zones are found in ORS Chapter 215 and in Oregon Administrative Rules, Chapter 660, Division 33.

Goal 4: Forest lands

This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."

Findings for Goals 3 and 4: In 1991, as part of Ordinance No. 164517, the City of Portland took an exception to the agriculture and forestry goals in the manner authorized by state law and Goal 2. Since this review does not change any of the facts or analyses upon which the exception was based, the exception is still valid, and Goal 3 and Goal 4 do not apply.

Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources

Goal 5 relates to the protection of natural and cultural resources. It establishes a process for inventorying the quality, quantity and location of 12 categories of natural resources. Additionally, Goal 5 encourages but does not require local governments to maintain inventories of historic resources, open spaces, and scenic views and sites.

Findings: The City complies with Goal 5 by identifying and protecting natural, scenic, and historic resources in the City's Zoning Map and Zoning Code. Natural and scenic resources are identified by the Environmental Protection ("p"), Environmental Conservation ("c"), and Scenic ("s") overlay zones on the Zoning Map. The Zoning Code imposes special restrictions on development activities within these overlay zones. Historic resources are identified on the Zoning Map either with landmark designations for individual sites or as Historic Districts or Conservation Districts. This site is not within any environmental or scenic overlay zones and is not part of any designated historic resource. Therefore, the proposed development affects no significant Goal 5 Resources, in compliance with Goal 5.

Goal 6: Air, Water and Land Resources Quality

Goal 6 requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.

Findings: Compliance with Goal 6 is achieved through the implementation of development regulations such as the City's Stormwater Management Manual at the time of building permit review, and through the City's continued compliance with Oregon Department of Environmental Quality (DEQ) requirements for cities. The Bureau of Environmental Services reviewed the proposal for conformance with sanitary sewer and stormwater management requirements and expressed no objections to approval of the application with conditions, as mentioned earlier in this report. For these reasons, the proposal is consistent with Goal 6.

Goal 7: Areas Subject to Natural Disasters and Hazards

Goal 7 requires that jurisdictions adopt development restrictions or safeguards to protect people and property from natural hazards. Under Goal 7, natural hazards include floods, landslides, earthquakes, tsunamis, coastal erosion, and wildfires. Goal 7 requires that local governments adopt inventories, policies, and implementing measures to reduce risks from natural hazards to people and property.

Findings: The City complies with Goal 7 by mapping natural hazard areas such as floodplains and potential landslide areas, which can be found in the City's MapWorks geographic information system. The City imposes additional requirements for development in those areas through a variety of regulations in the Zoning Code, such as through special plan districts or land division regulations. The subject site is not within any mapped floodplain or landslide hazard area, so Goal 7 does not apply.

Goal 8: Recreation Needs

Goal 8 calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed standards for expediting siting of destination resorts.

Findings: The City maintains compliance with Goal 8 through its comprehensive planning process, which includes long-range planning for parks and recreational facilities. The proposed development may affect existing or proposed parks or recreation facilities in as it relates to noise in a way is not anticipated by the zoning for the site. Nothing about the proposal will undermine planning for future facilities. Therefore, the proposal is not entirely consistent with Goal 8.

Goal 9: Economy of the State

Goal 9 calls for diversification and improvement of the economy. Goal 9 requires communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

Findings: Land needs for a variety of industrial and commercial uses are identified in the adopted and acknowledged Economic Opportunity Analysis (EOA) (Ordinance 187831). The

EOA analyzed adequate growth capacity for a diverse range of employment uses by distinguishing several geographies and conducting a buildable land inventory and capacity analysis in each. In response to the EOA, the City adopted policies and regulations to ensure an adequate supply of sites of suitable size, type, location and service levels in compliance with Goal 9. The City must consider the EOA and Buildable Lands Inventory when updating the City's Zoning Map and Zoning Code. Because this proposal does not change the supply of industrial or commercial land in the City, the proposal is consistent with Goal 9.

Goal 10: Housing

Goal 10 requires local governments to plan for and accommodate needed housing types. The Goal also requires cities to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

Findings: The City complies with Goal 10 through its adopted and acknowledged inventory of buildable residential land (Ordinance 187831), which demonstrates that the City has zoned and designated an adequate supply of housing. For needed housing, the Zoning Code includes clear and objective standards. Since this proposal is not related to housing or to land zoned for residential use, Goal 10 is not applicable.

Goal 11: Public Facilities and Services

Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs.

Findings: The City of Portland maintains an adopted and acknowledged public facilities plan to comply with Goal 11. See Citywide Systems Plan adopted by Ordinance 187831. The public facilities plan is implemented by the City's public services bureaus, and these bureaus review development applications for adequacy of public services. Where existing public services are not adequate for a proposed development, the applicant is required to extend public services at their own expense in a way that conforms to the public facilities plan. In this case, the City's public services bureaus found that public services can be extended for the proposal, as discussed earlier in this report. Since the City will require the proposal to conform to the City's public facilities plan, the proposal is consistent with Goal 11.

Goal 12: Transportation

Goal 12 seeks to provide and encourage "safe, convenient and economic transportation system." Among other things, Goal 12 requires that transportation plans consider all modes of transportation and be based on inventory of transportation needs.

Findings: The City of Portland maintains a Transportation System Plan (TSP) to comply with Goal 12, adopted by Ordinances 187832, 188177 and 188957. The City's TSP aims to "make it more convenient for people to walk, bicycle, use transit, use automobile travel

more efficiently, and drive less to meet their daily needs." The Applicant has submitted a Traffic Impact Study that assessed impacts on the vicinity's street network that are anticipated due to the addition of traffic generated by the proposed use. The TIS concluded that "the transportation system can support the proposed development without mitigation. " Consistent with the requirements of the North Cully Plan District, vehicular access to and from NE Alberta Street is recommended to be prohibited. Therefore, the proposal is consistent with Goal 12.

Goal 13: Energy

Goal 13 seeks to conserve energy and declares that "land and uses developed on the land shall be managed and controlled to maximize the conservation of all forms of energy, based upon sound economic principles."

Findings: With respect to energy use from transportation, as identified above in response to Goal 12, the City maintains a TSP that aims to "make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs." This is intended to promote energy conservation related to transportation. Additionally, at the time of building permit review and inspection, the City will also implement energy efficiency requirements for the building itself, as required by the current building code. For these reasons, the proposal is consistent with Goal 13.

Goal 14: Urbanization

This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land." It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses.

Findings: In the Portland region, most of the functions required by Goal 14 are administered by the Metro regional government rather than by individual cities. The desired development pattern for the region is articulated in Metro's Regional 2040 Growth Concept, which emphasizes denser development in designated centers and corridors. The Regional 2040 Growth Concept is carried out by Metro 's Urban Growth Management Functional Plan, and the City of Portland is required to conform its zoning regulations to this functional plan. This land use review proposal is for development of land consistent with its urban zoning at a location within the City Limit and the UGB; it does not change the UGB surrounding the Portland region and it does not affect the Portland Zoning Code's compliance with Metro's Urban Growth Management Functional Plan. Therefore, Goal 14 is not applicable.

Goal 15: Willamette Greenway

Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.

Findings: The City of Portland complies with Goal 15 by applying Greenway overlay zones which impose special requirements on development activities near the Willamette River. The subject site for this review is not within a Greenway overlay zone near the Willamette River, so Goal 15 does not apply.

Goal 16: Estuarine Resources

This goal requires local governments to classify Oregon's 22 major estuaries in four categories: natural, conservation, shallow-draft development, and deep-draft development. It then describes types of land uses and activities that are permissible in those "management units."

Goal 17: Coastal Shore/ands

This goal defines a planning area bounded by the ocean beaches on the west and the coast highway (State Route 101) on the east. It specifies how certain types of land and resources there are to be managed: major marshes, for example, are to be protected. Sites best suited for unique coastal land uses (port facilities, for example) are reserved for "water-dependent" or "water-related" uses.

Goal 18: Beaches and Dunes

Goal 18 sets planning standards for development on various types of dunes. It prohibits residential development on beaches and active foredunes but allows some other types of development if they meet key criteria. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.

Goal 19: Ocean Resources

Goal 19 aims "to conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf." It deals with matters such as dumping of dredge spoils and discharging of waste products into the open sea. Goal 19's main requirements are for state agencies rather than cities and counties.

Findings: Since Portland is not within Oregon's coastal zone, Goals 16-19 do not apply.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all requirements of Title 11 can be met, and that all development standards of Title 33 can be met or have received an Adjustment or Modification via a land use review, prior to the approval of a building or zoning permit.

OF NOTE:

Landscape Plan: Required landscaping on the site has been reviewed for minimum area requirements only, as shown on the Proposed Landscape Areas Plan, Exhibit C-3. However, other requirements of the applicant's landscape plan have not been reviewed for compliance, such as the minimum number of trees and shrubs, species diversity, and classification of large, medium, or small tree species.

Bicycle Parking: The applicant has proposed bicycle parking spaces in the building. However, bicycle parking requirements of Chapter 33.266 have not been reviewed in this land use review because a tenant is not identified, and a floor plan has not been provided.

Screening of Loading Areas: The west edge of the loading ramp requires screening to the L4 standard of Chapter 33.248. Part of the L4 standard requires a 6-foot tall masonry wall extending the full length of the loading ramp (Section 33.266.310.E and Table 266-7). The applicant's site plan does not meet this standard in full (building permit plans must be designed to meet the standard).

The applicant will be required to demonstrate that these standards are met at time of building permit review, should the land use review application be approved.

CONCLUSIONS

The applicant proposes to fully develop the 13.41-acre site into a large warehouse facility. The site is a former quarry that has been filled but is now an open site covered with groundcover plants, mainly grasses and wildflowers. The site's perimeter slopes steeply downward toward the relatively low level central part of the site, a remnant feature of its former use.

The proposed development fits with the site's Employment zone (EG2), as Warehouse and Freight Movement uses are allowed by right in this zone. All vehicle access will be from the site's shared entry drive at NE Killingworth Street. Retaining walls varying in height from approximately 10 to 15 feet will be added to the site's perimeter slopes and increase the usable area on the site. While the building is only one story, it is over 40 feet in height.

The warehouse building is centered on the site. Loading docks, 42 in a row, line the building's north wall with loading ramps on either end. The magnitude of the building's size, nearly 270,000 square feet and extensive loading areas have focused attention on how it will function as the site is close to existing and planned residential uses located northwest/west and southwest/south of the site.

The proposal is subject to the North Cully Development Review. This land use review was added to the Zoning Code in 1992, after the neighborhood's plan was adopted by the City Council. Along with the North Cully Plan District, the purpose of the review is to ensure compatible redevelopment of certain large parcels as set forth in the Cully Neighborhood Plan. Further, the review and Plan District regulations guide development in a cohesive pattern to encourage compatible development with the neighborhood.

Aspects of the approval criteria are satisfied, including the establishment of a landscaped buffer area along the site's nearly 800 feet of frontage at NE Alberta Street. At least 40 feet of landscaping is provided here, and the building is set back nearly 70 feet from the street property line. Significant information and analysis, however, is missing from the application pertaining to the type and level of noise generated from 42 loading docks and 2 loading ramps. It is not clear that the development, after a tenant is selected and it is in full operation, will be compatible with residential zoned lands. Mitigation measures are proposed (such as locating loading docks away from south and west residential properties, separation distance of 150 feet or more, strategic location of the building to block sound from loading area) may not be sufficient. The warehouse development, without a tenant, creates uncertainty in hours and intensity of operations especially during the night-time hours of 10 pm to 7 am.

Staff reviewed the applicant's proposal and concludes that there is insufficient evidence to show compliance with Approval Criteria A, E and G of Section 33.560.050 (North Cully Development Review approval criteria).

- Criteria A requires compliance with the goals and objectives of the Cully Neighborhood Plan.
- Criteria E requires that the developed site be compatible with the surrounding area.
- Criteria G requires evidence that the proposal not have an adverse impact on the livability of nearby residential lands.

Two Adjustments requested by the applicant are reasonable, given the site conditions and the warehouse design and program. As proposed, staff finds that the Adjustment approval criteria is satisfied. However, because staff finds the development proposed under the North Cully Development Review does not meet the relevant approval criteria, the Adjustment requests cannot be approved.

Going forward, the City's Noise Control Officer has provided guidelines for the applicant to consider, if additional information is submitted (Exhibit E-9). And if the proposal can be modified to comply with the applicable approval criteria, the Noise Control Office suggests a framework for conditions of approval that encourage communication and coordination between the warehouse development and nearby residents.

TENTATIVE STAFF RECOMMENDATION

(May be revised upon receipt of new information at any time prior to the Hearings Officer decision)

Denial of the North Cully Development Review request for a new warehouse building with associated loading docks, loading ramps, vehicle and trailer parking.

Denial of the Adjustment requests:

1. To increase the maximum length of the pedestrian path between NE Alberta Street and the building main entrance from 462 feet to 515 feet (Section 33.140.240.B.1); and
2. To reduce the minimum perimeter parking area setback from 5 feet to 4.5 feet along the east property line adjacent to the entry driveway (approximately 465 feet in length) and to reduce the minimum number of trees from 31 to 16 (Section 33.266.130.G.2).

Procedural Information. The application for this land use review was submitted on May 3, 2019 and was determined to be complete on June 19, 2019.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on May 3, 2019.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on October 17, 2019.**

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

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

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans and labeled as such.

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

This report is not a decision. The review body for this proposal is the Hearings Officer who will make the decision on this case. This report is a recommendation to the Hearings Officer by the Bureau of Development Services. The review body may adopt, modify, or reject this recommendation. The Hearings Officer will make a decision about this proposal within 17 days of the close of the record. Your comments to the Hearings Officer can be mailed c/o the Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201 or faxed to 503-823-4347.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on the Bureau of Development Services website. Look at www.portlandonline.com. On the left side of the page use the search box to find Development Services, then click on the Zoning/Land Use section, select Notices and Hearings. Land use review notices are listed by the District Coalition shown at the beginning of this document. You may review the file on this case at the Development Services Building at 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201.

Appeal of the decision. The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Who can appeal: You may appeal the decision only if you write a letter which is received before the close of the record for the hearing, if you testify at the hearing, or if you are the property owner/applicant. Appeals must be filed within 14 days of the decision. **Appeals must be filed within 14 days of the decision. An appeal fee of \$5,000 will be charged (one-half of the BDS application fee, up to a maximum of \$5,000).**

Appeal Fee Waivers: Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization’s bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

Recording the final decision.

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

- *Unless appealed*, the final decision will be recorded by the Bureau of Development Services at least 14 days after **the Hearings Officer issues a decision.**

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

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

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

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

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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

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

Planner's Name: Marguerite Feuersanger

Date: July 26, 2019

EXHIBITS

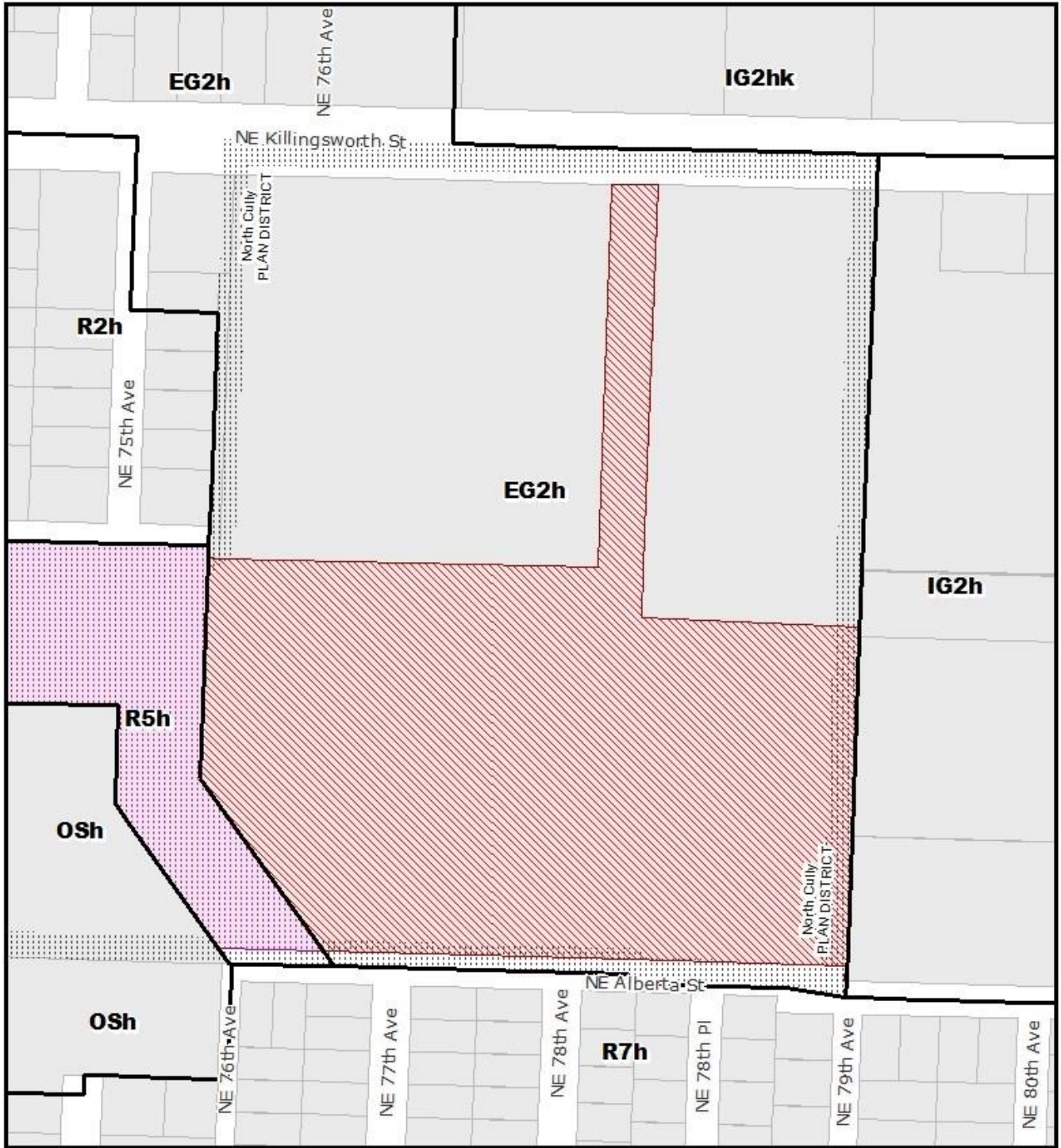
NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement:

1. Original Submittal, May 3, 2019
2. Supplemental Narrative, June 18, 2019
3. Supplemental Narrative, July 8, 2019
4. Geotechnical Report, May 3, 2019

5. Easement Agreement regarding use of entry drive with access from NE Killingworth Street, May 3, 2019
 6. Transportation Impact Study, May 3, 2019
 7. Sample Transportation Demand Management (TDM) Plan, May 3, 2019
 8. Preliminary Storm Drainage Calculations (Updated), June 18, 2019
 9. Site Noise Study, June 18, 2019
- B. Zoning Map (attached):
1. Existing Zoning
 2. Proposed Zoning
- C. Plans & Drawings:
1. Overall Site Plan (attached)
 2. Site Plan (attached)
 3. Proposed Landscape Areas (attached)
 4. Photometric Plan
- D. Notification information:
1. Request for response
 2. Posting letter sent to applicant
 3. Notice to be posted
 4. Applicant's statement certifying posting
 5. Mailing list
 6. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Portland Fire and Rescue
 5. Site Development Review Section of Bureau of Development Services
 6. Urban Forestry Division of Portland Parks and Recreation
 7. Life Safety Commercial Plan Review of BDS
 8. Bureau of Police
 9. Noise Control Officer of the Office of Community and Civic Life
- F. Letters:
1. Valerie McKenzie, July 15, 2019, writing with concerns about increased parking, access on Alberta Street, operation hours, wetlands for migratory birds, noise restriction, setback and sound barriers, trees.
 2. David Sweet, Land Use Chair, Board of the Cully Association of Neighbors, July 23, 2019, writing with concerns about adverse impacts of noise, nighttime disturbances and glare.
- G. Other:
1. Original LUR Application
 2. Letter to Applicant identifying information needed to complete the application, May 30, 2019
- H.

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



ZONING  NORTH

THIS SITE LIES WITHIN THE:
NORTH CULLY PLAN DISTRICT

-  Site
-  Also Owned Parcels

File No.	LU 19-160020 NC AD
1/4 Section	2538
Scale	1 inch = 200 feet
State ID	1N2E20A 200
Exhibit	B May 07, 2019

KILLINGSWORTH INDUSTRIAL DEVELOPMENT - PORTLAND, OR

NORTH CULLY DEVELOPMENT REVIEW - MAY 3, 2019

EXHIBIT C

BUILDING INFORMATION
 19100 NE ALBERTA STREET
 PORTLAND, OR 97230

OWNER
 BRIDGE PARTNERS LLC
 15000 NE 17th STREET
 BELLEVUE, WA 98008

ARCHITECT
 MACKENZIE
 1000 NE 17th AVE, SUITE 100
 PORTLAND, OR 97232

CIVIL ENGINEER
 MACKENZIE
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 PORTLAND, OR 97232

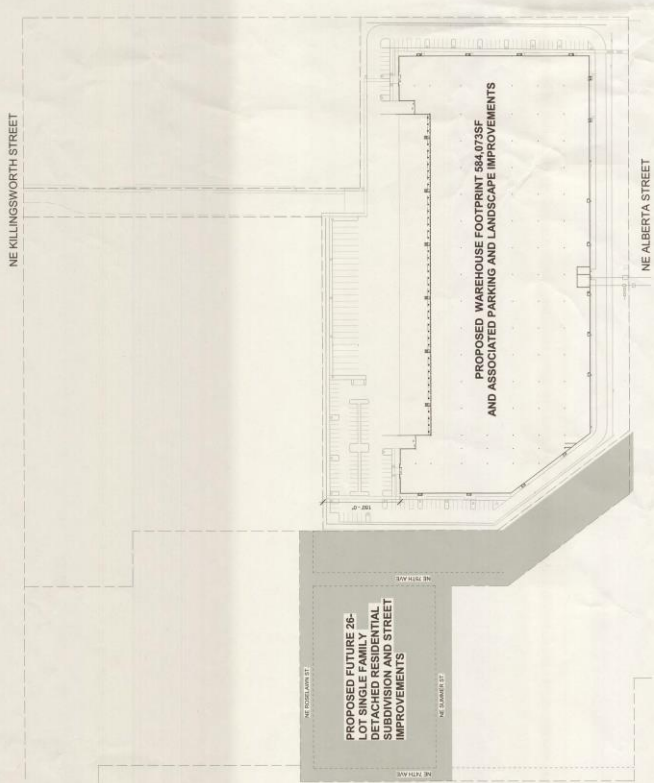
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 1000 NE 17th AVE, SUITE 100
 PORTLAND, OR 97232

- DRAWING INDEX**
- 001 TITLE SHEET AND DRAWING INDEX
 - 010 GENERAL NOTES
 - 020 SITE PLAN
 - 030 CONSTRUCTION NOTES
 - 040 CONCRETE
 - 050 TRUCK DRIVE
 - 060 TRUCK DRIVE
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 - 500 TRUCK DRIVE



VICINITY MAP

rec. 7/10/19

M.
 Architecture - Interiors
 Planning - Engineering

MACKENZIE
 1000 NE 17th AVE, SUITE 100
 PORTLAND, OR 97232

KILLINGSWORTH INDUSTRIAL DEVELOPMENT
 19100 NE ALBERTA STREET
 PORTLAND, OR 97230

BRIDGE PARTNERS LLC
 15000 NE 17th STREET
 BELLEVUE, WA 98008

PROPOSED FUTURE 26-LOT SINGLE FAMILY DETACHED RESIDENTIAL IMPROVEMENTS

PROPOSED WAREHOUSE FOOTPRINT 584,073SF AND ASSOCIATED PARKING AND LANDSCAPE IMPROVEMENTS

EXHIBIT C-1
 19.160020 NC AD

G0.0
 Development Review, Completeness Revisions 7/08/2019
 NORTH CULLY DEVELOPMENT REVIEW_05/03/19

Exhibit C-1



Portland, OR
1000 NE Oregon Street
Portland, OR 97232
503.255.1000
www.mackenzie.com

MACKENZIE
BRIDGE
PARTNERS, L.L.C.
2000 NE Oregon Street
Portland, OR 97232

1111 MACKENZIE
INDUSTRIAL
DEVELOPMENT
ALBERTA ST
PORTLAND, OR 97228

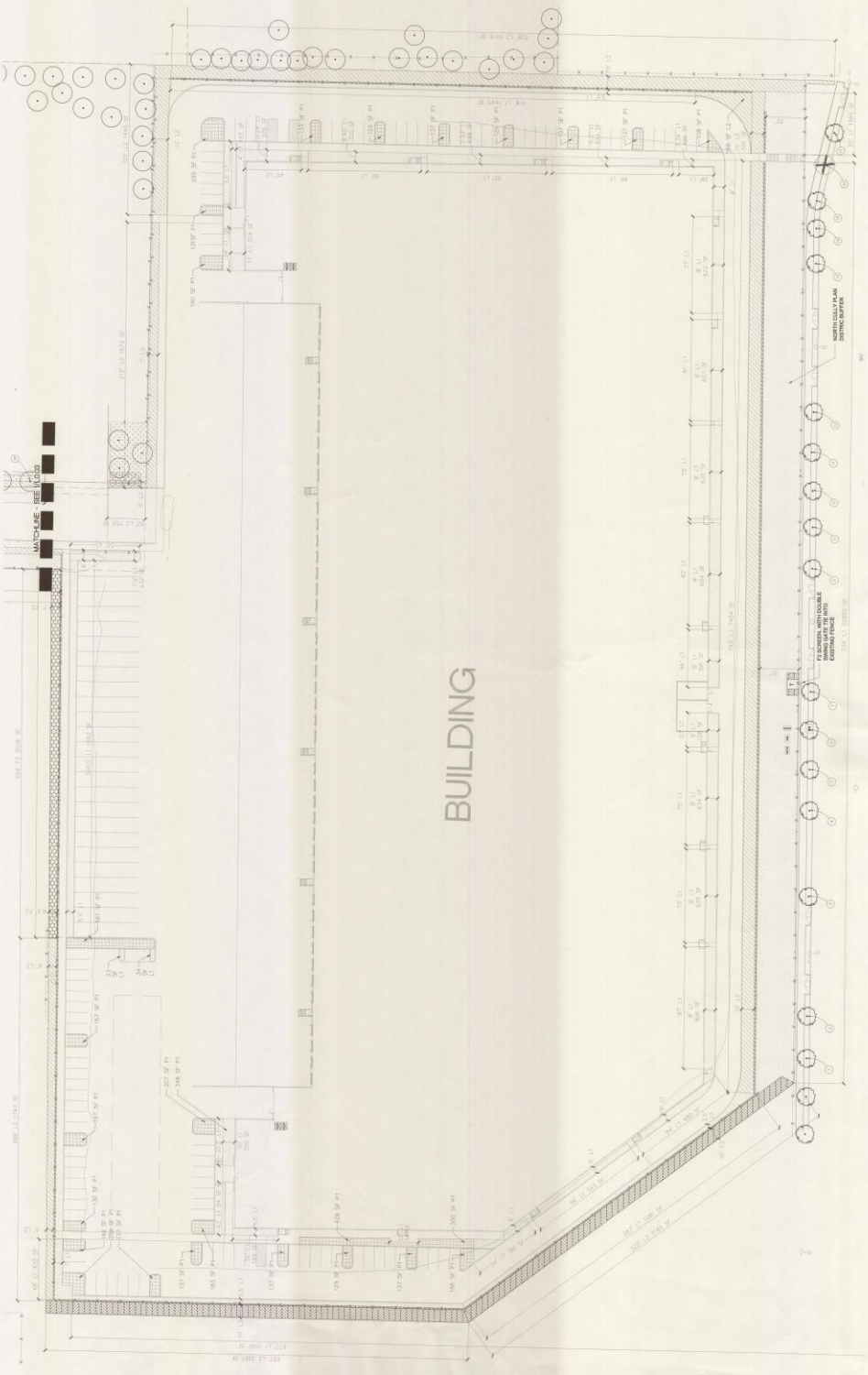
DATE: 05/03/19
DRAWN BY: [Name]
CHECKED BY: [Name]
SCALE: AS SHOWN

LANDSCAPE CODE
AND
TREE AND
VEGETATION
PROTECTION PLAN

DATE: 05/03/19
DRAWN BY: [Name]
CHECKED BY: [Name]
SCALE: AS SHOWN

L0.03

280203.00



BUILDING

LANDSCAPE CODE AND TREE AND VEGETATION PROTECTION PLAN



LEGEND

- L1 INTERIOR PARKING (CLASS 1)
- L2 EXTERIOR LANDSCAPE (CLASS 2)
- L3 EXTERIOR LANDSCAPE (CLASS 3)
- P1 EXTERIOR LANDSCAPE (CLASS 1)

NOTES

- 1. ALL LANDSCAPE CALCULATIONS OCCURRING
- 2. SEE CIVIL SHEETS FOR TOP OF WALL ELEVATIONS

EXHIBIT C-3
19-160020 NC AD
Development Review Completion Revisions 7/08/2019
NORTH CULLY DEVELOPMENT REVIEW 05/03/19