



CITY OF PORTLAND ENVIRONMENTAL SERVICES



1120 SW Fifth Avenue, Suite 613, Portland, Oregon 97204 ■ Mingus Mapps, Commissioner ■ Michael Jordan, Director

Land Use Response

Date: September 15, 2021

To: Megan Sita Walker, BDS Land Use Services
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From: Rosa Lehman, BES Systems Development
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Case File: LU 21-061842

Location: 550 SE M L KING BLVD

R#: R150103, R150103

Proposal: DZ HEARING - The Applicant is requesting approval for a Type III Design Review with Modifications and a concurrent Type II Historic Resource Review for a proposed new half block, 7-story "5-over-2" mixed-use building in the Central Eastside Subdistrict of the Central City Plan District. Ground-level uses include commercial retail spaces, residential amenities, parking with approximately 60 parking stalls, and approximately 132 residential dwelling units of varying sizes at levels 2-7. The Type II Historic Resource Review is required as a small portion of the east building wall is within the East Portland/ Grand Avenue Historic District. The proposal requests approval of the following Modifications: Modification 1 ¿ Request to modify Ground Floor Windows coverage, PZC, 33.510.220 to reduce from 40% coverage to 33.9% on SE Washington. ¿ Request to modify Ground Floor Windows length, PZC, 33.140.230.B, to reduce length from 50% to 36.2% on SE Washington. Modification 2 ¿ Request to modify Ground Floor Active Use, PZC, 33.510.225 to reduce the requirement from 50% to 39.6% of the ground floor of walls that front onto a sidewalk be design and constructed to accommodate active uses in accordance the standards of the section for height and depth of space, accessibility, and glazing requirements. Design Review is required because the proposal is for non-exempt new construction within in Design Overlay zone. Modification Reviews are required because the applicant is requesting to not meet the standards indicated above. Historic Resource Review is required for the portion of the East facade of the proposed building that is within the East/ Portland Grand Avenue Historic District.

The following comments are based on the land use review plans and documents provided to the Bureau of Environmental Services (BES). Some references to Portland City Code (PCC) are included below; the applicant may also refer to the Auditor's Office [Online Charter and Code page](#).

A. RESPONSE SUMMARY

BES does not object to approval of the design review application. The proposed development will be subject to BES standards and requirements during the permit review process.

B. SANITARY SERVICE

For BES to recommend approval of the design review application, the applicant must demonstrate that the proposed project will accommodate sanitary disposal facilities that are approvable under PCC 17.32. The comments below relate to this requirement.

1. *Existing Sanitary Infrastructure:* According to available GIS data, the following sewer infrastructure is located in the vicinity of the project site:
 - a. There is a 12-inch sanitary sewer in SE Martin Luther King Jr Blvd (BES as-built #E09182). According to best available GIS data, there are laterals to the sanitary sewer

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located approximately 19, 72 and 170 feet south of the manhole in SE Martin Luther King Jr Blvd (#AQD088).

2. *Service Availability:* Sanitary connections from private property that are to be permitted according to PCC 17.32.090 must be separately conveyed to the property line and connected through individual laterals to a City sanitary or combined sewer. All discharge must be connected via a route of service approved by the BES Chief Engineer.
 - a. *Existing Development:* According to City records, the existing development is currently connected to sanitary sewer in SE Martin Luther King Jr Blvd. This lateral should be capped with demolition.
 - b. *Proposed Development:* Per the submitted utility plans, the proposed development will be served by a new connection to the sanitary sewer in SE Martin Luther King Jr Blvd.
3. *Water Main and Sewer Main Locations:* According to available GIS data, a water main is located between the proposed development site and the sanitary main in SE MLK Blvd. Any new connection(s) to the sewer main will cross the water main and will therefore require a [Water Utility Protection Plan](#). Sanitary laterals must meet required separation distances according to the Water Bureau; the applicant should contact the assigned Water Bureau reviewer or the Water Bureau general email (devrev@portlandoregon.gov) with questions related to required separation distances.
4. *Connection Requirements:* Connections to the City sewer system must meet the standards of the City of Portland's [Sewer and Drainage Facilities Design Manual](#), [PCC 17.32.090](#), administrative rules [ENB-4.07](#) and [ENB-4.17](#), and all other relevant City codes and rules. Sanitary sewage from private property must be separately conveyed to the property line and connected through individual laterals for discharge to the City separate sanitary or combined sewer. Per [ENB-4.07](#), sewer connection permits are required to make new connections to City mains and laterals, relocate or upsize existing laterals, and repair sewers in City right-of-way. The permittee is responsible for verifying the location, depth and size of an existing sewer lateral and for ensuring the lateral is clear of obstructions prior to connection.
5. *Pet Relief Areas* ([PCC 17.32.030\(F\)](#), [PCC 17.34](#), [PCC 17.39](#)): Any liquid wastes generated from an area that will be built specifically for, or used as, a pet relief area and that contain a drain must direct discharges to the sanitary sewer system. As stormwater is not allowed into the sanitary sewer system, pet relief areas must also be covered and protected from stormwater coming in contact with that area. The submitted site drawings show a pet relief area on the basement level and therefore covered.

Staff finds the applicant's proposed sanitary sewer service acceptable for the purpose of reviewing the design review application.

C. STORMWATER MANAGEMENT

For BES to recommend approval of the design review application, the applicant must demonstrate that the proposed project will accommodate stormwater management facilities that are approvable under PCC 17.38. The comments below relate to this requirement.

1. *Existing Stormwater Infrastructure:* According to available GIS data, the following stormwater infrastructure is located in the vicinity of the project site:
 - a. There is not a storm sewer currently available for connection from the site.
 - b. There is a 72-inch brick combined sewer overflow main in SE Stark St (BES as-built # 20543).

- c. There is a 12-inch reinforced concrete storm sewer in SE Martin Luther King Jr Blvd (BES as-built #E08755) from the intersection of SE Martin Luther King Jr Blvd and SE Washington St flowing south.
 - d. The storm sewer in SE Martin Luther King Jr Blvd discharges to a 69-inch fiber reinforced resin combined sewer overflow main in SE Alder St (BES as-built #6070).
2. *General Stormwater Management Requirements:* Development and redevelopment sites that include any of the triggers listed in PCC 17.38.040 are subject to the policies and standards of PCC 17.38.035, Portland's [Stormwater Management Manual](#) (SWMM) and [Source Control Manual](#) (SCM). Projects must comply with the current adopted version of the SWMM as of the permit application date. A fundamental evaluation factor in the SWMM is the Stormwater Infiltration and Discharge Hierarchy (Section 1.3.3), which sets the framework that will be used to determine when a project's stormwater runoff must be infiltrated onsite and when offsite discharge will be permitted, and the parameters that must be met for either scenario. If tested infiltration rates on a property are greater than or equal to 2 inches per hour, onsite infiltration will be required unless the site qualifies for the ecoroof exception per Section 3.2.1 or infiltration is determined infeasible based on site conditions described in Chapter 2 of the SWMM. Note that maximum building coverage allowed by the zoning code, including below grade development, does not exempt the applicant from stormwater requirements. Pollution reduction and flow control requirements must be met using vegetated facilities to the maximum extent feasible, though roof runoff and some paved impervious surfaces are exempt when discharging directly to a UIC (refer to Sections 1.3.2, 1.3.4, 3.2.4 and 4.2.2 of the SWMM).
3. *Private Property Stormwater Management:* Stormwater runoff from this project must comply with all applicable standards of the SWMM and SCM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee. Staff reviewed the submitted stormwater report from Humber (April 2, 2021) and geotechnical report from GRI (November 25, 2019). The submitted geotechnical report includes unfactored encased infiltration test results of 0 inches per hour at 3 feet below ground surface and 3 inches per hour at 8.5 feet. Rather than infiltrate, the applicant proposes for runoff from the development to be discharged offsite to the storm sewer after flow and volume control standards are met with a 11730sf ecoroof designed to meet the stormwater management requirement for the entire development.

In order to accommodate this configuration, an extension of public storm sewer is required. Under Public Works Permit (PWP) #EP637, BES Development Engineering approved the Concept Development plans (i.e. 30% design) for the sewer extension on May 12, 2021; therefore, BES finds that an offsite discharge location can be made available to the development as shown. Prior to permit approval BES will require approved plans, a financial guarantee, receipt of all outstanding fees, and a signed permit document.

4. *Public Right-of-Way Stormwater Management:* Stormwater runoff from public right-of-way improvements as required by the City of Portland Bureau of Transportation (PBOT) must be managed according to the standards of the SWMM and the Sewer and Drainage Facilities Design Manual.

PBOT requires the construction of public frontage improvements, which trigger public stormwater management improvements per the standards of the SWMM and the Sewer and Drainage Facilities Design Manual. Per Public Works Permit (PWP) #EP637, stormwater from the public right-of-way will be managed through tree credits. BES Development Engineering approved the Concept Development plans (i.e. 30% design) for the right-of-way stormwater improvements on May 12, 2021; therefore, BES finds that tree credits can be used, as shown on the applicant's submitted plans.

Staff finds the applicant's proposed stormwater management plan acceptable for the purpose of reviewing the design review application.

D. CONDITIONS OF APPROVAL

BES has no recommended conditions of approval.

E. PERMIT INFORMATION

At the time of permit review the applicant should be aware of the following:

1. *Connection Fees*: Sewer system development charges and connection fees are assessed at the time of building plan review and change every fiscal year on July 1st. For additional information on these fees use the [BDS Online Fee Estimator](#) or call the BES Development Review Team at 503-823-7761, option 2.
2. *Building Plans*: Building plans for this project must include a detailed site utility plan which shows proposed and existing sanitary connections, as well as stormwater management that meets the requirements of the version of the SWMM that is in effect at the time permit applications are submitted.
3. *Source Control Requirements*: Source control requirements from the [Source Control Manual \(SCM\)](#), [Portland City Code \(PCC\) Title 17](#), and [BES Administrative Rules](#) that may be applicable to this project are listed below with the corresponding chapter, section, code, and/or rule. For specific questions on the following, please contact BES Source Control at 503-823-7122.
 - a. *Site Use and Activity-Based Source Control Requirements (SCM Chapter 6)*: BES recommends the applicant review the following SCM sections to understand the structural, treatment, and operational BMP requirements that may impact the project design.
 - 1) *Waste and Recycling Storage (SCM Section 6.1)*
 - 2) *Covered Vehicle Parking (SCM Section 6.3)*
 - b. *Site Dewatering Requirements (SCM Chapter 9, [PCC 17.34](#), [PCC 17.36](#), [PCC 17.38](#), [PCC 17.39](#), [ENB 4.32](#))* BES evaluates requests for temporary and long-term stormwater and groundwater dewatering discharges into the city sewer system for approval or denial. See Appendix 1 of the SCM for the Construction Dewatering Discharge Application Form. If approved, a Discharge Permit for the storm or combined sewer may be required.
 - 1) Fees are assessed for temporary construction discharges to the public sewer system – navigate [HERE](#) for current rates and information about dewatering as it relates to [construction projects](#).
 - 2) Construction discharges to City UICs are prohibited.
 - 3) Construction discharges to private UICs (e.g., drywells or soakage trenches) must be authorized by DEQ's UIC Program.
 - 4) Groundwater levels at this location are relatively low (approximately 10-20 feet below grade surface based on seasonally adjusted USGS data). If the development is expected to reach this depth or encounters perched groundwater, additional requirements apply if long-term post-construction dewatering is needed. When using a private onsite facility to manage groundwater flows, the SWMM O&M Form and O&M Plan must be recorded with the County and submitted. A Notice of Conditions must also be recorded against the property deed.

- c. *Grease Management Program* ([PCC 17.34](#), [ENB 4.26](#)): The City requires grease management (GM) devices in all food service establishments and for any business/industry that may introduce fats, oils, or grease (FOG) into the public sewer. A monitoring access structure (MAS) may also be required. Please refer to the MAS discussion below regarding MAS requirements. For additional information, go to the [Cut Through the FOG](#) webpage.
- d. *Extra Strength Sewer Charge Program* ([PCC 17.34](#), [PCC 17.36](#), [ENB 4.25](#)): Food service establishments and some other industries incur a surcharge on their sewer bills. A monitoring access structure (MAS) may also be required. Please refer to the MAS discussion below regarding MAS requirements. Establishments that employ best management practices can apply for a rate reduction. Call 503-823-7093 for more information.

G. ADMINISTRATIVE REVIEW

The applicant may request a modification of a decision presented in this response, as applicable, via an administrative review as outlined in PCC sections 17.06.050, 17.32.150, 17.33.100, 17.34.115, 17.36.110, 17.38.060 and 17.39.120 and in those sections' associated administrative rules. Some portions of this response are not decisions, but guidance related to requirements that this proposal may be subject to during City review of other processes, such as a building permit or public works permit review. While these are not decisions that are ripe to be considered through an administrative review, if the outcome of a future administrative review needs to be anticipated at this time in order to inform the land use action, the administrative review process may be utilized. Some items, such as technical standards, are not reviewable. For guidance on whether a modification can be requested and whether the land use process is the proper time to request it, consult with the BES staff identified above prior to submitting a request.

There is no fee charged for an administrative review, and all BES penalties and late fees will be stayed pending the outcome of the review process, as applicable. To request an administrative review, the applicant must complete the Administrative Review Request Form (located here: www.portlandoregon.gov/bes/68285) and submit it to the Systems Development staff listed above within 20 business days of the mailing date of this response. The applicant should coordinate with the BDS planner to determine whether applying for an administrative review would have an impact on state-mandated land use timelines.