



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

Carmen Rubio, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7310
TTY: (503) 823-6868
www.portland.gov/bds

RECORDER

Please stamp the County Recorder's copy of the recording sheet and return with the attached decision to City of Portland, PP&D 299/5000/PP&D LUR

Multnomah County Official Records	2025-026552
E. Murray, Deputy Clerk	04/30/2025 11:19:42 AM
LUA-LUA Pgs=11 Stn=56 ATKW	\$126.00
\$55.00 \$11.00 \$60.00	

**FINAL FINDINGS, CONCLUSIONS AND DECISION OF THE
DESIGN COMMISSION
ON AN
APPEALED ADMINISTRATIVE DECISION
(TYPE II PROCEDURE)**

Case File Number: 22-159396 AD: 2788 NW THURMAN ST

The Administrative Decision for this case was appealed by Trolleycar Lofts Homeowners Association, 2781 NW Savier Street, Portland, OR 97210 and 28 Neighbors represented by Mary DeVries, 2803 NW Savier St. Portland, OR 97210 to the City of Portland Design Commission. The Design Commission granted aspects of the appeal that had been addressed by the Applicant and upheld the Administrative Decision that approved the proposal, but with additional conditions of approval.

GENERAL INFORMATION

Applicant: Philip Sydnor
Integrate Architecture & Planning
1919 N Kilpatrick
Portland, OR 97217
Phone: 503.312.2561
Email: phil@integratearch.com

Owner Rep: Erik Opsahl
Savier Development
2724 NW Savier St

Portland, OR 97210

Owner: Gregg Opsahl
Nascent Collective Llc
Po Box 29107
Portland, OR 97296

Site Address: 2788 NW THURMAN ST

Legal Description: TL 8600 0.23 ACRES, SECTION 29 1N 1E
Tax Account No.: R941290220
State ID No.: 1N1E29DC 08600
Quarter Section: 2826

Neighborhood: Northwest District, contact Greg Theisen at
planningchair@northwestdistrictassociation.org

Business District: None

District Coalition: Neighbors West/Northwest, contact at admin@nwnw.org

Plan District: Northwest

Zoning: CM2d (Commercial/Mixed Use 2 zone with Design “d” overlay zone)

Case Type: AD (Adjustment Review – 2 Concurrent Adjustments)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space. For lot lines in the CM2 zone abutting residentially zoned sites, the Portland Zoning Code requires a minimum building setback of 10 feet and a landscape buffer to the L3 standard (Section 33.130.215.B, Table 130-2). The expansion at the southeast corner of the existing building is proposed to be located as close as 6 feet from the south lot line (at the second-floor patio and first floor staircase/trash enclosure area). An existing loading area along the southwestern corner of the site is proposed to remain and a 6-foot wide pedestrian access connection is proposed along the southern edge of the site to serve as access for the building and trash enclosure area; therefore, no landscaping is proposed in this area¹. The adjacent site to the south is residentially zoned (RM1 – Residential Multi-Dwelling 1); therefore, an Adjustment is requested to reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer.

While no loading spaces are required, the applicant is proposing to modify the existing 23-foot-11-inch wide loading area located along the southern edge of the site. It is proposed to be reduced to 10 feet wide (to be consistent with the “Standard B” loading space requirements), and the remaining 13 foot – 11 inch curb cut is proposed to be closed for use as additional on street parking.² The Portland Zoning Code requires that loading spaces abutting a Residential

¹ The applicant is proposing a 3-foot-2-inch wide x 24.5-foot long landscape planter at the ground level, a 2.5-foot wide x 19.5-foot long landscape planter area at the southern edge of the stairway, and a 4-foot wide x 29-foot long landscape planter at the southern edge of the second-floor patio. These landscape planters are proposed within the 10-foot landscape buffer area.

² While the loading space is legally existing, it is not meeting current landscaping requirements. Development not complying with development standards must be brought into conformance or receive an Adjustment. (Loading spaces are considered “exterior development” and therefore subject to nonconforming landscaping upgrades per Section 33.258.070.D.2.b.1).

zone be set back a minimum of 5 feet and include perimeter landscaping to the L4 standard (per Section 33.266.310.E, Table 266-8). The loading space's location is adjacent to a residentially zoned site (RM1 – Residential Multi-Dwelling 1) to the south. An additional requirement of this standard requires that loading spaces not be located between a building and the street. While the existing loading space is not proposed to expand or be relocated, the addition is proposed to be located as close as 6 feet from the southern property line and the loading space is proposed to be 10 feet wide; this would result in the northernmost 4 feet of the loading space being located between the building and NW 28th Avenue. An Adjustment is therefore requested to reduce the residential-abutting setbacks to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street.

Note: The applicant submitted a revised plan set which reduced the southernmost outdoor seating areas so they are not located within the minimum 10-foot building setback for abutting residential lots (to the south) and expanded the width of the landscape planters areas along these areas to 4 feet to allow additional landscape buffer area.

Relevant Approval Criteria:

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

CONCLUSIONS

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space. Two Adjustments are requested to:

1. reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer; and
2. reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street (NW 28th Avenue).

While an Adjustment is requested to reduce the minimum residential-abutting (south) building setback from 10 feet to 6 feet at the southeastern addition to the building, about half of the southern façade is over 23 feet from the southern lot line, which is a substantial increase in distance over the 10-foot minimum building setback, and helps offset the building's overall massing. Additionally, the maximum height of the structure, including the proposed partial second story addition is approximately 35-feet, which is substantially lower than the maximum allowed 45-foot building height. Furthermore, the southernmost 18 feet of the building, where the second level patio is proposed, is only about 14 feet in height, and sits about 10 feet lower than the top of Trolleycar Loft's parapet. The partial second story addition is proposed to be set back 32 to 36 feet from the southern property line, resulting in a step-down building design from north to south. The significantly reduced height and FAR (compared to what the CM2 zone allows) reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.

While a full 10 feet of L3 landscape buffer is not proposed, one new small tree is proposed at the ground level and 4-foot-wide landscape planters with 6-foot-tall evergreen shrubs will be provided along the southern edge of the seating areas where the building setback and landscaping adjustment is requested. Combined with the revised floorplans which do not provide customer seating within 10 feet of the southern lot line, the landscaping will promote privacy and provide a transition to the neighboring residences to the south. It will also improve the appearance of the site by providing additional landscaping, as the current development has

no landscaping. A condition of approval will require that the landscaped buffer areas be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

The existing 24-foot-wide x 90-foot-long paved loading area along the southern edge of the site is proposed to be reduced to 18 feet x 10 feet. PBOT responded with no concerns regarding the Adjustment review and noted that reducing the existing curb cut as proposed, from about 24 feet to 10 feet, will add an additional on-street parking space and provide additional street tree plantings. The northernmost 4 feet of the loading space is proposed to be located between the southernmost building addition and the street, which will obscure only about 4% of the western building facade. The loading space is located along the southern property line and is connected to the 6-foot access area proposed at the south edge of the site. If the loading area was located anywhere else on site, it would obscure more of the building facade. New landscaping planters are proposed along the entire north edge and a portion of the east edge of the loading space, as well as within the existing 24-foot-wide x 90-foot-long paved loading area. These features will help improve the appearance of the loading area and overall site.

The “desired character” of this site is determined by the character statement of the CM2 zone, the purpose statements of the Design Overlay Zone and the Northwest Plan District, the Northwest District Plan, and the Portland Citywide Design Guidelines.

- The proposed additions, patios, and loading area will be consistent with the CM2 zone’s intentions of providing commercial uses with limited off-site impacts in an area with transit service.
- Rather than demolishing the existing commercial building, the applicant is proposing a renovation which will include 9 new, full-story ground floor windows along the (currently windowless) north and west facades, and new indoor dining and outdoor patio seating, which will encourage social interaction and foster inclusivity in people’s daily experience and allow for year-round use regardless of the climate. Trash, delivery, and electric utility access are proposed at the southeast corner of the site where these areas will remain out of public view and away from the street facing facades. By allowing multiple tenants with a range of retail sales and service uses, the commercial building should have flexibility for changing tenants and smaller scale restaurants, and will therefore promote long-term resilience in the face of changing demographics and economic conditions. For these reasons, staff finds the proposal is consistent with the purpose statement for the Design Overlay Zone.
- The proposal will include a mix of different retail sales and service uses on a site with transit access and will therefore encourage a concentration of commercial uses along NW Thurman (classified as a “main street”), strengthen the area’s role as a commercial and residential center, and enhance the pedestrian experience. For these reasons, staff finds the proposal is consistent with the purpose statements for the Northwest Plan District and the Northwest District Plan.
- The building design preserves the historic portions of the north facade and adds ground floor windows along the remaining portions of the north and west facades, strengthening the storefront connection to the commercial corner of NW Thurman Street and NW 28th Avenue. The proposed indoor and outdoor dining areas will provide a variety of seating types for customers and will be connected externally via stairways and internally via entrance doors. An elevator is also proposed at the south edge of the second story addition for improved accessibility. The proposed landscaping will offer a comfortable buffer and distinction from the public realm and promote health and wellness by helping to mitigate the effects of urban heat island. For these reasons, staff finds the proposal is consistent with the Portland Citywide Design Guidelines.

Because of the reduced height and scale of the overall building, and because of the loading area reduction and limited impacts, cumulative effects will be minimal and the proposed additions, patios, and loading area will be consistent with the CM2 zone’s intentions as stated above.

The existing building was originally built between 1914 and 1921 and is classified as an eligible/contributing building in the Historic Resource Inventory. The eastern half of the Thurman Street facade has a corbeled brick parapet, entablature, and a decorative belt course

above the windows. Additional special features include large store windows and transom windows. These features will all be retained. While the partial second-story addition will change the appearance of this façade, the roof profile at the historic portion of the, will remain as is, thus preserving the historically significant features of the front façade. Much of the original siding on this non-historically contributing section of the building is brick but was covered up by vertically clad composite material. This composite material will be removed, and brick will be repaired/replaced as necessary. The brick siding will better match the historically significant front façade and, along with the new ground floor windows, will help unify the building's design.

Impacts resulting from the Adjustments are mitigated to the extent practical as follows:

- The significantly reduced height and FAR reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.
- Customer seating will not be provided within 10 feet of the southern lot line
- The landscaping will promote privacy, provide a transition to the neighboring residences to the south, and improve the appearance of the site.
- In order to address neighbor concerns about customer noise on the patios, particularly at night, the applicant has proposed a new gate/fence at the southwestern edge of the site to limit access when the business is closed and signage at all patio access doors (2 on the ground level and 2 at the upper level) stating: "South outdoor areas closed to customers after 10 PM."

The proposal meets the applicable approval criteria and approval is therefore recommended.

DESIGN COMMISSION DECISION

The Design Commission denies both appeals and supports the staff recommendation of approval of 2 Adjustments to:

1. reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer(Section 33.130.215.B, Table 130-2); and
2. reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street (NW 28th Avenue) (Section 33.266.310.E, Table 266-8)

as part of a larger proposal to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space, per the approved plans and elevations, Exhibits C-1 through C-3, signed and dated June 1, 2023, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 22-159396 AD." All requirements must be graphically represented on the site plan, landscape, or other required plans and must be labeled "REQUIRED."
- B. The landscaped buffer areas along the southern edge of the seating areas (upper courtyard, lower courtyard, stadium seating, and lower rooftop deck, as shown on Exhibit C.2) must be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

These findings, conclusion and decision were adopted by the City of Portland Design Commission on May 18, 2023.

By: 
Brian McCarter, Design Commission Chair

Date Final Decision Effective/Mailed: June 1, 2023

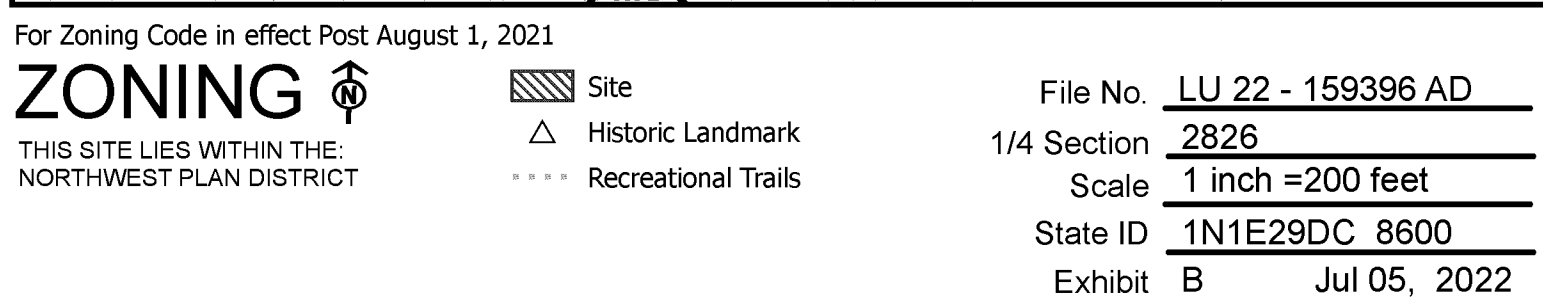
Effective Date (if no appeal): June 2, 2023 Decision may be recorded on this date
Kimberly Tallant, Principal Planner

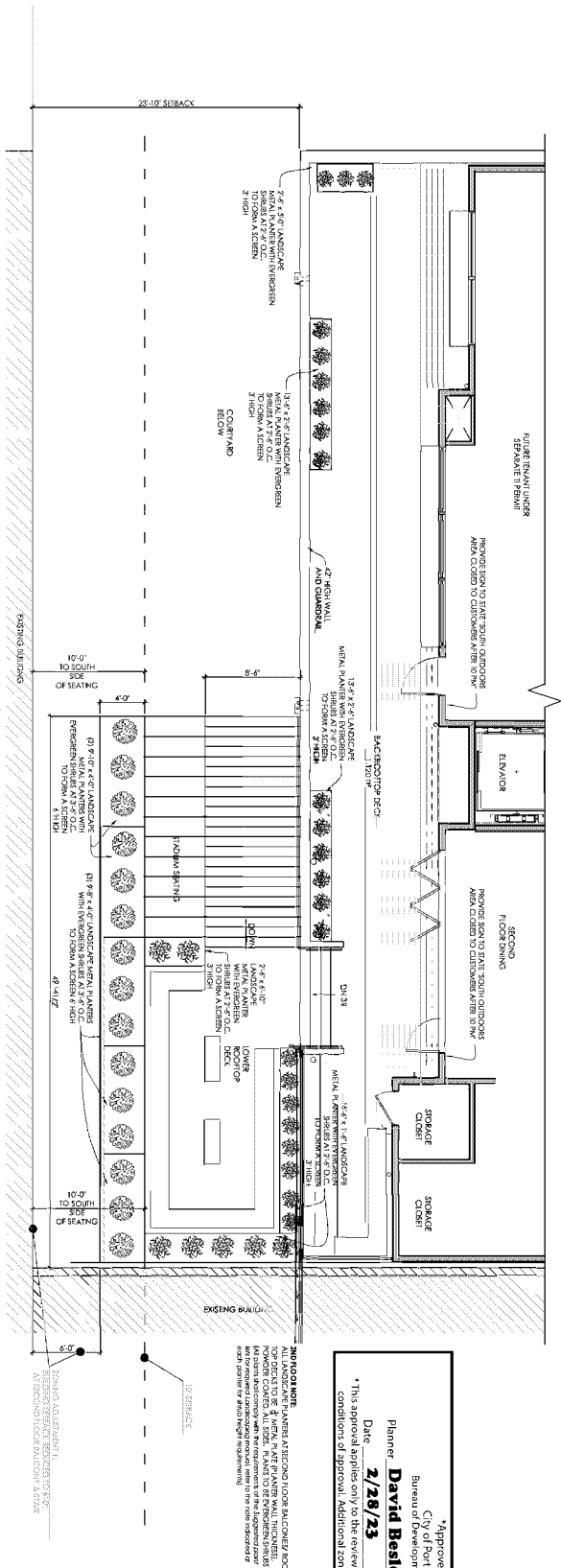
City of Portland
Portland Permitting & Development
1900 SW Fourth Ave, #5000
Portland, OR 97201

Date: June 2, 2023

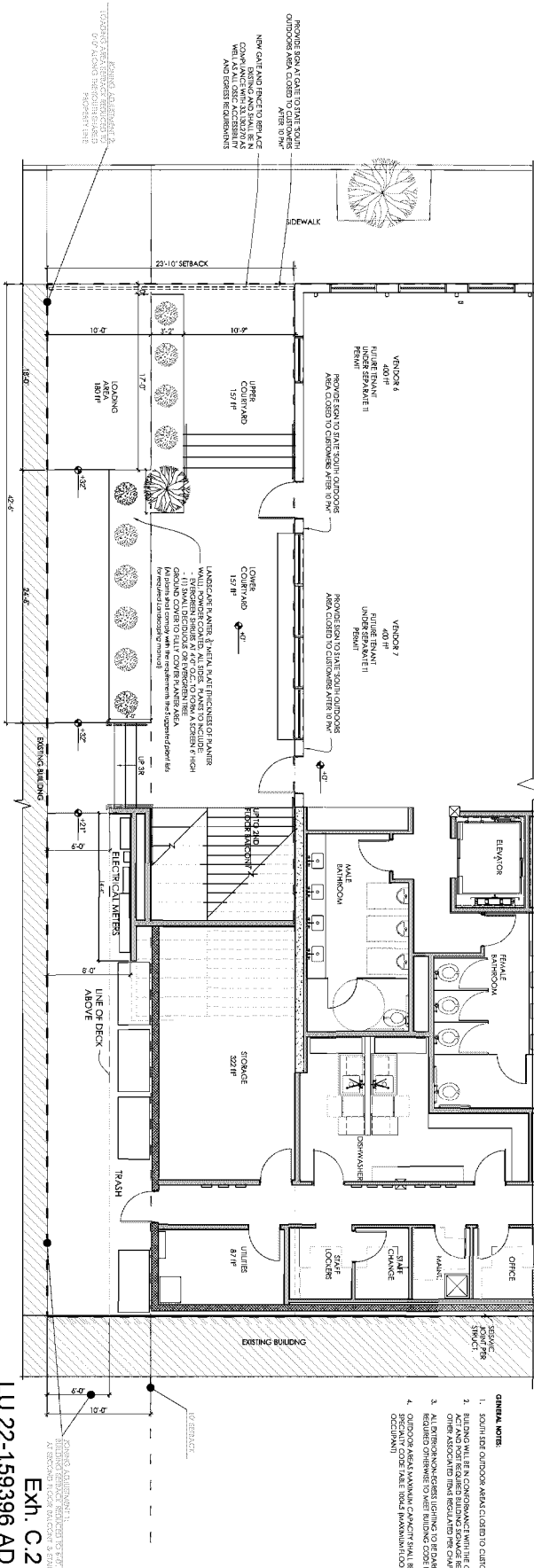


Representative





Approved
City of Portland
Bureau of Development Services
Planner: **David Besley**
Date: **2/28/23**



Exh. C.2
LU 22-159396 AD

1 PARTIAL FIRST FLOOR PLAN
3/16" = 1'-0"

2 PARTIAL SECOND FLOOR PLAN
3/16" = 1'-0"

TEATE
ARCHITECTURE & PLANNING

www.teatearch.com
© Teatearch Architecture & Planning, Inc.

A1.2

Zoning Adjustment
February 7, 2023
Thurman Food Hall
2774-2788 NW Thurman St.
Portland, OR



City of Portland
Bureau of Development Services

Planner **David Besley**

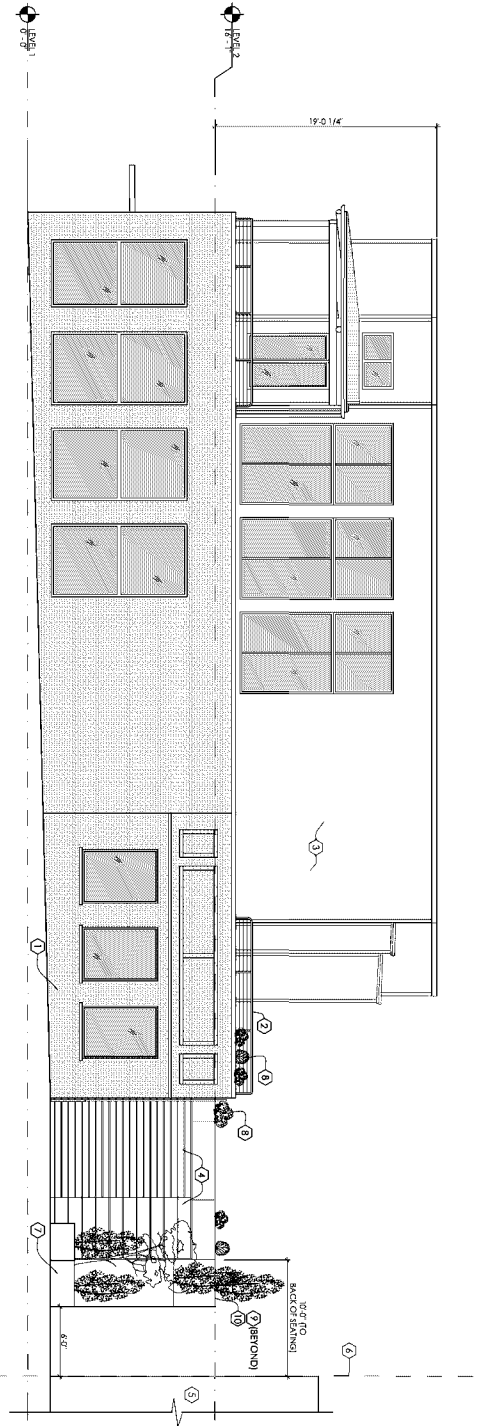
Date **2/28/23**

2 NORTH ELEVATION
3/16" = 1'-0"

Exh. C.3

LU 22-159396 AD

- Zoning Adjustment**
February 7, 2023
Thurman Food Hall
2774-2788 NW Thurman St.
Portland, OR
- A3.1**
- THE PLATE**
ARCHITECTURE & PLANNING
www.theplatearch.com
© Theplate Architecture & Planning, LLC



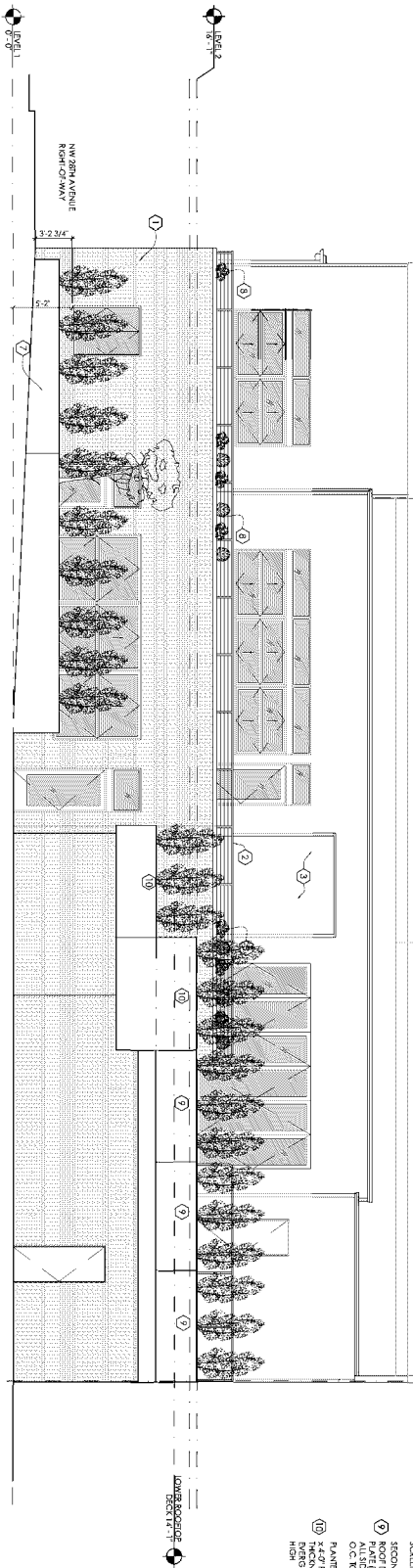
KEY NOTES

- 1 EXISTING MAINTENANCE WALL
- 2 BALCONY GLASS RAIL
- 3 NEW SECOND FLOOR WALLS BEYOND
- 4 NEW FIRST FLOOR BALCONY TO SECOND FLOOR BALCONY AREA ABOVE
- 5 EXISTING TROPHY CASE LOFT BUILDING ADJACENT TO SOUTH SIDE OF SITE SEE EXHIBIT A
- 6 SOUTH PROPERTY LINE
- 7 NEW LANDSCAPE PLANTER 8' METAL PLANTER 8' HIGH PLANTER WALL THICKNESS 10" POWER COATED, ALL DIMENSIONS SHOWN AT 4'-0" TO FORM A SCREEN 6' HIGH
- 8 EXISTING MAINTENANCE WALL THICKNESS 10" POWER COATED, ALL DIMENSIONS SHOWN AT 4'-0" TO FORM A SCREEN 6' HIGH
- 9 SECOND FLOOR LANDSCAPE PLANTER LANDSCAPE PLANTER AT SECOND FLOOR BALCONY/ROOF TOP DECK TO BE 8' HIGH PLANTER WALL THICKNESS 10" POWER COATED, ALL DIMENSIONS SHOWN AT 4'-0" TO FORM A SCREEN 6' HIGH
- 10 SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER PLANTER PLANTER WALL THICKNESS 10" POWER COATED, ALL DIMENSIONS SHOWN AT 4'-0" TO FORM A SCREEN 6' HIGH
- 11 PLANTER AT SOUTH SIDE OF STORM DRAIN 10' x 10' PLANTER PLANTER WALL THICKNESS 10" POWER COATED, ALL DIMENSIONS SHOWN AT 4'-0" TO FORM A SCREEN 6' HIGH
- 12 EXISTING MAINTENANCE WALL THICKNESS 10" POWER COATED, ALL DIMENSIONS SHOWN AT 4'-0" TO FORM A SCREEN 6' HIGH

WEST ELEVATION

3/16" = 1'-0"

* Approved*
City of Portland
Bureau of Development Services
Planner **David Besley**
Date **2/28/23**
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



SOUTH ELEVATION

3/16" = 1'-0"

Exh. C.3
LU 22-159396 AD



City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 | 503-823-7300 | www.portlandoregon.gov/bds



Type II and IIX Decision Appeal Form

LU Number: _____

FOR INTAKE, STAFF USE ONLY

Date/Time Received _____	<input type="checkbox"/> Action Attached _____
Received By _____	Fee Amount _____
Appeal Deadline Date _____	Y N Fee Waived
<input type="checkbox"/> Entered in Appeal Log _____	Bill # _____
<input type="checkbox"/> Notice to Dev. Review _____	Neighborhood _____

APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS _____ DEADLINE OF APPEAL _____

Name _____

Address _____ City _____ State/Zip Code _____

Day Phone _____ Email _____ Fax _____

Interest in proposal (applicant, neighbor, etc.) _____

Identify the specific approval criteria at the source of the appeal

Zoning Code Section 33. _____ . _____ Zoning Code Section 33. _____ . _____

Zoning Code Section 33. _____ . _____ Zoning Code Section 33. _____ . _____

Describe how the proposal does or does not meet the specific approval criteria identified above or how the City erred procedurally:

Appellant's Name _____

I acknowledge this typed name as my signature

FILE THE APPEAL - Submit the following:

- ☐ This completed appeal form
- ☐ A copy of the Type II or IIX Decision being appealed
- ☐ An appeal fee as follows:
 - ☐ \$250, payable to City of Portland
 - ☐ No appeal fee is charged when appeal is filed by Civic Life recognized organizations for properties within organization's boundaries
 - ☐ Fee waiver request letter for low income individual is signed and attached
 - ☐ Fee waiver request letter for Unincorporated Multnomah County recognized organizations is signed and attached

Email this application and supporting documents to: LandUseIntake@portlandoregon.gov

To file the appeal, this completed application form and any supporting documentation must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of the Decision. To be valid, the City must receive the appeal by 4:30 p.m. on the deadline listed in the Decision. Once the completed appeal application form is received, a Land Use Services Technician will contact you with instructions on how to pay the fee.

A public hearing on the appeal will be held. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

Type II and IIx Appeal Procedure

For land use review applications that follow a Type II and IIx procedure, the Bureau of Development Services makes the decision on the application. This decision is called the Administrative Decision and may be appealed. The applicant and/or an interested person who does not agree with the Administrative Decision may appeal it by using the Type II and IIx Decision Appeal Form and submitting an appeal fee. No appeal fee is charged for Type II and IIx appeals when filed by a Civic Life recognized organization; the appeal must be for property located within the organization's boundaries, and the vote to appeal must be in accordance with the organization's bylaws. An appeal of a decision triggers an initial hearing before a City review body.

There is a 14-day appeal period that starts the day that the decision is mailed. The last day to appeal is stated in the decision. If appealed, a specific review body hears the case and makes the final City decision. These review bodies include:

- The Hearings Officer
- The Design Commission
- The Portland Historic Landmarks Commission
- The Adjustment Committee

Type II and IIx Appeal Hearing

When a decision is appealed, the Bureau of Development Services schedules a public hearing and sends out a notice within five days of receiving the appeal. The hearing is held at least 21 days from the mailing of the notice.

At the hearing, everyone attending is allowed to speak to the review body. The testimony must address whether or not the proposal meets the approval criteria as described in the Administrative Decision or how the City erred procedurally. Written testimony is also accepted prior to or at the hearing. This may include additional information submitted by the applicant and/or appellant.

If a committee reviews the appeal, a decision is made at the hearing. If the Hearings Officer is the review body, they may make a decision at the hearing, or make a decision later. Both the Hearings Officer and the committee must make a written decision and send notice of the decision within 17 days after the hearing. The decision is mailed to the appellant, applicant, and to anyone who submits oral or written testimony at the hearing.

The review body may adopt, modify, or overturn the Administrative Decision based on the information presented at the hearing and in the case record.

Appeal Fees

An appeal of a land use decision must include an appeal fee. There is a \$250 fee charged for appealing a Type II and IIx decision. This fee is refunded if the decision-maker grants the appeal; i.e. agrees with the appellant.

In order for an appeal to be valid, an appeal fee must accompany the appeal form or a fee waiver request must be approved before the appeal deadline as stated in the specific land use decision (Section 33.730.020 of the Portland Zoning Code). See below for fee waiver eligibility information.

Low Income Fee Waiver

The appeal fee may be waived for low income applicants who appeal a land use decision on the site of their primary residence in which they have an ownership interest. In addition, the appeal fee may be waived for low income individuals who have resided for at least 60 days within the required notification area for the land use review. Low income individuals requesting a fee waiver will be required to certify their annual gross income and household size. The appeal fee will only be waived for households with a gross annual income of less than 50 percent of the area median income as established and adjusted for household size by the federal Department of Housing and Urban Development (HUD). All financial information submitted to request a fee waiver is confidential. Fee waiver requests must be approved prior to appeal deadline to be considered for a fee waiver.

Information is subject to change

Attachment A

Appeal of Adjustments at 2788 NW Thurman Street 97210

Applicant's requested Adjustments do not equally or better meet the purpose of the modified zoning regulations.

Alternatives would improve project without planning adjustments.

ZONING CODE SECTION 33.130.215: Setbacks

(Per Notice of Decision Attached) Setback Adjustment

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, and add ground level and second floor patios connected via an external stairway, which requires an Adjustment to reduce the minimum 10-foot building setback to 6 feet (for commercial lots abutting residential lots) along the south lot line, and to waive the L3 landscaping buffer.

33.130.215 Setbacks

The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial/mixed use zones. The setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air, and the potential for privacy for adjacent residential zones.

The residential building adjacent to the project to the south (Trolleycar Lofts) includes a solid brick wall at its north façade. The northern facade of Trolleycar Lofts is located zero feet from the shared lot line with the subject site. While there are no doors or windows along its northern edge, the 6 units within have partial roof patios. The second level patio of the proposed commercial development includes a smaller patio that is closest to the residential zone, which has a finished surface elevation about 10 feet beneath the top of Trolleycar Loft's parapet, and a larger second level patio which is set back 24 feet from the residential property line and has a finished surface elevation that is 8 feet lower than the top of the parapet (see Exhibit A.2, page 4). Because the second level patios are significantly lower than the Trolleycar Lofts parapet, privacy to the residents of Trolleycar Lofts will be promoted.

Trolleycar Lofts, a residential condominium building adjacent to/sharing the project's southern property line adjoining the project's current 10'x100' alley, However, its description is incomplete and incorrect.

Trolleycar Lofts has six (6) penthouses adjacent to six (6) roof decks on its roof.

Five (5) of the six (6) penthouses have (1) bedroom and (1) full size bathroom. Range in size from 357 SF to 470 SF. Total 2134SF

Closest to Trolleycar Lofts North parapet wall and the project are:

Unit 2759 roof deck

Unit 2761 penthouse/roof deck

Unit 2777 penthouse/roof deck

Unit 2769's penthouse's north wall.

Unit 1704 penthouse/roof deck.

Trolleycar Lofts penthouse fronts/roofs are 6 feet to 8 feet *above* the its North parapet. Parapet is not a complete penthouse sound barrier given origins' locations and distances from the parapet.

Unit 1704 penthouse/roof deck also adjacent to Trolleycar Lofts West parapet and NW28th's East sidewalk. NW 28th East street side parking and East sidewalk next to Unit 1704's two (2) first floor bedrooms' West exterior walls.

Trolleycar Lofts also has thirty (30) venting skylights. Of these, eleven (11) venting skylights are located on its five (5) penthouses and four (4) slope deck roof areas closest to the building's North parapet.

Three (3) lofts have multi-split systems which will reduce venting skylight use. Nonetheless, owners will also continue to use first floor living spaces' and penthouses' exterior windows to maintain interior ventilation.

Project's sound transmission to Trolleycar Lofts:

(1) might not be fully attenuated by its origins' elevations and distances.

(2) is important to Trolleycar Lofts livability.

Applicant must conduct with the assistance of professional consultancy(ies), sound transmission investigations.

Investigations to ensure that Trolleycar Lofts penthouses and first floor living areas sound levels are at a constant 55dBA and in compliance with Title 18 Noise Control Code.

First investigation submitted before Building Permit approval and second investigation submitted within (1) year after project completed. Each to confirm residential sound transmission compliance at 55dBA at Trolleycar Lofts.

Further, Applicant must review and modify as/if required, project's operating hours in its other business areas beyond the South outdoor courtyard, lower rooftop deck, and back rooftop deck 10PM closure to ensure compliance for other adjacent residences.

Applicant to not allow property owner and/or tenant amplified live and recorded music.

ZONING CODE SECTION 33.266.310: Loading Space Adjustment:
(Per Notice of Decision attached):

A second Adjustment is requested to reduce the residential-abutting setbacks for a loading space from 5 feet (landscaped to the L4 standard) to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street. The relevant purpose statements and associated findings are found below:

33.805.040 Adjustment 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.

Criteria A has Not been met.

Granting the Adjustment will NOT equally or better meet the purpose of the regulation to be modified.

33.266.310 Loading Standards

Code section, 33.266.130 omitted in the attached Decision. Cites the purpose of the requested adjustment.

33.266.130 Development Standards for All Other Development (Parking, Loading, And Transportation And Parking Demand Management)

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

Loading zone at 10'x18' is too small to allow garbage/recycling trucks to load. Only pickups and vans can safely unload/load in the zone. A front loading garbage truck is 8 ½ feet wide. A rear loading garbage truck is 8 feet wide. A side loading recycling truck is also 8' wide. All three truck types will have to be loaded on NW 28th Avenue. As well, beverage delivery trucks the same size as garbage/recycling trucks will also have to unload/load on NW 28th.

An additional parking space on NW 28th has been added adjacent to the loading zone. Will limit garbage/recycling and beverage truck loading efficiency and safety.

As well, pedestrian safety on the sidewalk adjoining the alley could be compromised by loading zone's proximity to the sidewalk.

Past use of alley has been limited/infrequent. A small number of garbage and recycling bins were moved from the alley to NW 28th. Project will significantly change that volume.

Trolley-car Lofts residents will have a more frequent garage driveway and sidewalk safety issue with the right or south side of the new loading zone as will other drivers and pedestrians. Especially Trolley-car Lofts residents when leaving the condominium's garage and turning right off its driveway onto NW 28th.

ZONING CODE SECTION 33.805.040: Adjustment approval criteria

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;

Landscaping, reduced building setbacks, and shorter loading zone in alley allow larger outdoor courtyards.

Larger outdoor courtyards can accommodate large gatherings. Large gatherings could affect sound transmission to Trolley-car Lofts living spaces. Their likelihood should be included in project's sound transmission investigations requested by Trolley-car Lofts.

Project's large gatherings could also affect sound transmission to two residences on east side of NW 28th as well as two residences at the NW Savier/NW 28th intersection.

PLANNING CODE SECTION 33.420.010: Design Overlay Zone

(Per Notice of Decision attached):

The site is in the Design overlay zone, the purpose for which is in Zoning Code Section 33.420.010:

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;*
- Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and*
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.*

Whether or not project can achieve the Design Overlay Zone's three (3) goals is subjective and difficult. However, no full-time on-site project manager for a large diverse multi-tenant restaurant and retail property, will make that effort difficult/problematic. Project manager should be on-site for at least two (2) years after project completed.

Attachment B

Trolleycar Lofts Homeowners Association

Trolleycar Lofts Homeowners Association (TLHOA) a six (6) condominium since 1998 in NW Portland with ten (10) owners and residents.

Trolleycar Lofts (TL) a former 1914 industrial/warehouse masonry building re-developed into six (6) residential lofts in 1996-1998. Located in RM1-Residential Multi-Dwelling zone. Building 16000SF.

Nascent Collective LLC (Nascent) owned since late 2020, a 1914 single story frame/masonry commercial building at 2788 NW Thurman Street 97210. Located in CM2D (MU-N) zone.

Nascent and Trolleycar Lofts buildings built in 1913/1914 by Beno & Ballis, two real estate developers in Portland, OR.

Trolleycar Lofts building later sold by developers in 1920's. Multiple commercial, military, and warehouse uses until redevelopment in 1998/1998.

Nascent's single story building has an existing 10' x 100' paved alley separating Trolleycar Lofts building's North exterior masonry wall from Nascent's building's South exterior masonry walls.

Adjacent to last tenant's, Crackerjacks', outdoor bar/restaurant dining area adjacent to the alley. Area installed without Bureau Development Services approval.

Southern part of the alley next to an adjacent property has been enclosed by two (2) small storage sheds.



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

Carmen Rubio, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7310
TTY: (503) 823-6868
www.portland.gov/bds

Date: March 3, 2023
To: Interested Person
From: David Besley, Land Use Services
503-865-6715 / David.Besley@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 22-159396 AD

GENERAL INFORMATION

Applicant: Philip Sydnor
Integrate Architecture & Planning
1919 N Kilpatrick
Portland, OR 97217
Phone: 503.312.2561
Email: phil@integratearch.com

Owner Rep: Erik Opsahl
Savier Development
2724 NW Savier St
Portland, OR 97210

Owner: Nascent Collective Llc
Po Box 29107
Portland, OR 97296

Site Address: 2788 NW THURMAN ST

Legal Description: TL 8600 0.23 ACRES, SECTION 29 1N 1E
Tax Account No.: R941290220
State ID No.: 1N1E29DC 08600
Quarter Section: 2826

Neighborhood: Northwest District, contact Greg Theisen at planningchair@northwestdistrictassociation.org
Business District: None
District Coalition: Neighbors West/Northwest, contact Darlene Urban Garrett at darlene@nwnw.org

Plan District: Northwest

Zoning: CM2d (Commercial/Mixed Use 2 zone with Design “d” overlay zone)

Case Type: AD (Adjustment Review – 2 Concurrent Adjustments)

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space. For lot lines in the CM2 zone abutting residentially zoned sites, the Portland Zoning Code requires a minimum building setback of 10 feet and a landscape buffer to the L3 standard (Section 33.130.215.B, Table 130-2). The expansion at the southeast corner of the existing building is proposed to be located as close as 6 feet from the south lot line (at the second-floor patio and first floor staircase/trash enclosure area). An existing loading area along the southwestern corner of the site is proposed to remain and a 6-foot wide pedestrian access connection is proposed along the southern edge of the site to serve as access for the building and trash enclosure area; therefore, no landscaping is proposed in this area¹. The adjacent site to the south is residentially zoned (RM1 – Residential Multi-Dwelling 1); therefore, an Adjustment is requested to reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer.

While no loading spaces are required, the applicant is proposing to modify the existing 23-foot-11-inch wide loading area located along the southern edge of the site. It is proposed to be reduced to 10 feet wide (to be consistent with the “Standard B” loading space requirements), and the remaining 13 foot – 11 inch curb cut is proposed to be closed for use as additional on street parking.² The Portland Zoning Code requires that loading spaces abutting a Residential zone be set back a minimum of 5 feet and include perimeter landscaping to the L4 standard (per Section 33.266.310.E, Table 266-8). The loading space’s location is adjacent to a residentially zoned site (RM1 – Residential Multi-Dwelling 1) to the south. An additional requirement of this standard requires that loading spaces not be located between a building and the street. While the existing loading space is not proposed to expand or be relocated, the addition is proposed to be located as close as 6 feet from the southern property line and the loading space is proposed to be 10 feet wide; this would result in the northernmost 4 feet of the loading space being located between the building and NW 28th Avenue. An Adjustment is therefore requested to reduce the residential-abutting setbacks to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street.

Note: The applicant submitted a revised plan set which reduced the southernmost outdoor seating areas so they are not located within the minimum 10-foot building setback for abutting residential lots (to the south) and expanded the width of the landscape planters areas along these areas to 4 feet to allow additional landscape buffer area.

Relevant Approval Criteria:

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

¹ The applicant is proposing a 3-foot-2-inch wide x 24.5-foot long landscape planter at the ground level, a 2.5-foot wide x 19.5-foot long landscape planter area at the southern edge of the stairway, and a 4-foot wide x 29-foot long landscape planter at the southern edge of the second-floor patio. These landscape planters are proposed within the 10-foot landscape buffer area.

² While the loading space is legally existing, it is not meeting current landscaping requirements. Development not complying with development standards must be brought into conformance or receive an Adjustment. (Loading spaces are considered “exterior development” and therefore subject to nonconforming landscaping upgrades per Section 33.258.070.D.2.b.1).

ANALYSIS

Site and Vicinity: The 10,000 square foot site is located on the southeast corner of the intersection of NW Thurman Street and NW 28th Avenue. The relatively flat site is currently developed with a 7,213 square foot single-story commercial building (an out-of-business tavern). The surrounding vicinity is developed with a mix of commercial buildings and higher density residential buildings along NW Thurman Street to the east, ranging from 1-to-3-stories. Development to the south is primarily single- and multi-dwelling residential buildings ranging from 1-to-3-stories. Development about one block to the north consists primarily of higher density multi-dwelling residential buildings ranging from 2-to-4-stories. The adjacent sites to the north, east, and west of the subject site are also zoned Commercial/Mixed Use 2 with a Design (“d”) overlay zone. The adjacent site to the south is zoned Residential Multi-Dwelling 1 (RM1), and is developed with a single-story multi-dwelling residential building with a partial second floor.

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

The Design overlay zone (“d”) ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city’s evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;
- Contribute to a public realm that encourages social interaction and fosters inclusivity in people’s daily experience; and
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **November 17, 2022**. The following Bureaus have responded as follows:

- The Portland Bureau of Transportation (PBOT) responded with no concerns regarding the Adjustment review, included information about required right-of-way improvements, and noted that reducing the existing curb cut as proposed will add an additional on-street parking space and provide additional street tree plantings (Exhibit E.1);
- The Life Safety Review Section of the Bureau of Development Services (BDS) responded with no concerns regarding the Adjustment review, and noted that a separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances (Exhibit E.2);
- The Bureau of Environmental Services (BES) responded with no concerns regarding the Adjustment review and noted that a detailed stormwater management plan will be required during building permit review (Exhibit E.3); and
- The Fire Bureau responded with no concerns and noted that a separate building permit is required for this proposal (Exhibit E.4).

The following Bureaus have responded with no concerns (Exhibit E.5):

- The Site Development Review Section of BDS; and

- The Water Bureau.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 17, 2022. Thirty-seven written responses have been received from the Northwest District Association (NWDA, Exhibit F.25) and neighboring property owners/HOAs in response to the proposal. Six responses (including the NWDA) were written in support of the proposal (See the Exhibit section at the bottom of this Decision Letter for details). The NWDA supports the project conditioned on the provision of the following measures:

1. Professional acoustic engineering review of all exterior mechanical equipment to assure acceptable operating noise levels, including the use of plantings for attenuation; and
2. An executed Good Neighbor Agreement, negotiated in good faith by the applicant and the affected neighbors, to address any anticipated operational issues arising from the proposed uses and the location of exterior public seating areas.

The remaining 31 responses were written expressing concerns about the proposal, requesting additional information about the proposal, suggesting modifications to the proposal, and/or opposing the proposal. Many of the concerns expressed by neighbors were shared and are summarized below:

- Privacy:
 - The proposed second floor drinking/dining area would be too close to the residential neighbors to south (Trolleycafe Lofts) and west, and because it is elevated, there would be privacy issues (views and noise from customers using the second-floor patio to the residents to the south, who have roof decks and skylights).
- The proposed patios are oriented toward NW 28th Ave to the west and the residential lot to the south rather than NW Thurman St to the north. A preferred design would be patios should be oriented to Thurman because this is a commercial corridor and NW 28th is more residential.
- Noise impacts:
 - Customers of the proposed business;
 - Ventilation from the kitchens;
 - Amplified or live music;
 - Trash pick-up; and
 - Deliveries/loading zone activity.
- Odor impacts:
 - Trash area;
 - Cigarette smoke; and
 - Cooking smells.
- Off-site impacts (sidewalk and surrounding areas):
 - Cigarette smoke;
 - Noise/drunken customers;
 - Tables and chairs in the sidewalk/right-of-way;
 - Vagrancy/loitering; and
 - Rodents
- Visual impacts:
 - Light pollution;
 - Loading space; and
 - Garbage.
- There could be an increase in traffic congestion and less parking availability.
- The proposed landscape planters/shrubs would not provide adequate buffer/mitigation.
- The proposal does not equally or better meet the purpose of the regulations (per Adjustment Approval Criterion A).
- The proposal would detract from the “livability and appearance” of the residential neighborhood (per Adjustment Approval Criterion B).
- The proposal would negatively impact the neighborhood character and property values.
- The scale of the project is too large/intensive:

- Too many occupants will be using the patio space, with estimates of 175-200 people in this area;
 - There will be too many restaurants/bars.
- There are maintenance concerns for the north wall of adjacent Trolley Car Lofts residential development to the south of the building.
- Granting the Adjustment would allow a roof top beer garden adjacent to a Residentially-zoned site.
- There are questions about the proposal that have not been answered by the applicant:
 - What are the hours of operation?
 - How many businesses will there be?
 - What kinds of businesses will there be?
 - What is the occupancy?
 - Will alcohol be served?
 - Will there be amplified or live music/outdoor entertainment? What will the volume be?

Applicant Response:

The applicant provided a response to neighbor comments (Exhibit A.2), which is summarized as follows:

- The applicant acknowledges compliance with the two conditions required by the NWDA.
- The scale of the proposal is far below the allowable 45-foot height and Floor Area Ratio (2.5:1 FAR and up to 4:1 FAR with bonuses). The proposed height is about 35 feet and the proposed FAR is about 1.58:1. The partial second story of the building is proposed to be set back 32 to 36 feet from the southern property line, which significantly exceeds the minimum 10-foot building setback requirement.
- Restaurants and bars are allowed in this commercial zone by right.
- Outdoor seating is proposed on the north, west, and south sides of the building. The outdoor seating area would be accessed from both NW Thurman Street through the building as well as from NW 28th Avenue, thereby connecting the two pedestrian pathways. The occupancy number of 175-200 people that was stated in the original letter written by a neighbor assumed a standing only environment and was calculated using gross square feet and did account for actual conditions where there will be space taken by tables, chairs, planters, egress walkways, etc. We anticipate the actual real world maximum capacity to be between 90-135 occupants for both the north and south outdoor areas, but the actual maximum allowed capacity stated per code will be in line with Oregon Structural Specialty Code and Fire Marshall requirements.
- The property will abide by all City sound and noise codes/ordinances as stated in Chapter 18.10.010 Maximum Permissible Sound Levels
- Regarding neighbor concerns about potential noise created by the outdoor areas on the upper level, and the impact to the roof decks of the Trolley car Lofts, it should be noted that the second-level smaller patio that is closest to the residential zone at the southeast corner of the property is only 500 sq.ft. with a seating area set back 10 feet from the property line. The finished surface elevation of the patio is about 10 feet beneath the top of the residential building's parapet, and the larger second level patio is set back 24 feet from the residential property line and has a finished surface elevation that is 8 feet lower than the top of the residential building's parapet.
- The existing 24 foot wide x 89 foot – 6 inch long paved loading zone was officially permitted (permit #395581) as a loading area in 1962, but has existed on the property since it was originally built in 1914. It has remained an active loading area over the years for both the tavern and art studio uses.
- The adjustments requested will reduce the burden on residential neighbors by allowing the waste area and electrical utility equipment to be located as far back as possible from the sidewalk frontage along NW 28th Ave, while also retaining an onsite loading area for deliveries, keeping the delivery vehicle out of the street in the way of traffic. The redefining of the existing loading area will also reduce the existing curb cut from about 26 feet down to 10 feet, thereby creating an additional on street parking space. It will also allow for the Portland General Electric (PGE) electrical equipment to be hidden

from view and placed further off the sidewalk and into the site while still meeting PGE's requirement to have the equipment to be located within 25' of a local service street for servicing access.

- The outdoor use on the southern facing patios will be closed to customer use after 10:00pm and several signs are proposed at patio entrances that state: "South outdoor areas closed to customers after 10 PM."
- The loading zone space will be used for deliveries during normal business hours.
- At this time there are no tenants identified for the space. We expect to accommodate between 6 – 10 tenants, which could range from a food vendor to artist gallery space.
- We have no plans to have any amplified music at this time, but if things were to change any music would be in accordance with Chapter 18.10.010, Maximum Permissible Sound Levels for Land Use Zones, and any anticipated noises above these levels would be done through a noise variance permit.
- The project will meet all current State and local requirements and standards governing ventilation. The trash areas is anticipated to be serviced every day or every other day depending on the amount of use at that given time.
- While there have been picnic tables historically located in the right-of-way on both Thurman St and NW 28th Ave, there are no current plans to have tables and chairs in the right-of-way. If tenants choose to place tables and chairs in the right-of-way in the future it will be done in accordance with PBOT requirements.

Staff Response:

Staff notes that this Adjustment review is requested to adjust the following development standards:

1. To reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer; and
2. To reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street.

Concerns and comments relevant to the Adjustment requests and approval criteria are located in the *Zoning Code Approval Criteria* section below.

In response to comments related to traffic, congestion, and vehicle parking availability, staff notes that parking is not required in this location (due to the retail sales and service use proposed, the lot size, and transit availability, per Section 33.266.110.B.1.b and Table 266-1); these issues are therefore not relevant to the Adjustments requested.

In response to comments that this is a residential area and the use is overly intensive for this area, staff notes that the zoning of the site is Commercial/Mixed Use 2, which allows retail sales and service uses (including restaurants and bars) by right.

In response to the concerns about how the proposal does not meet Adjustment Approval Criterion B because it detracts from "livability" and "appearance" of the area, Staff notes the wording of this approval criterion:

*If in a residential, CII, 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;***

staff notes that *livability* and *appearance* only apply to this criterion when an Adjustment request is in a Residential zone. This site is in a Commercial zone, so only the second part of Criterion B applies (shown in bold). This criterion is discussed in the *Zoning Code Approval Criteria* section below.

In response to comments regarding some neighbor's building orientation preference toward NW Thurman Street (a more "commercial" street) instead of NW 28th Avenue (a more "residential" street), staff notes that the sites directly across both streets (to the north and west, respectively) are also zoned CM2d and therefore the proposal is oriented toward commercial

zoning to the west and north. The proposal includes a main entrance along the north façade, roof patio seating at the northwest corner of the building, and roof patio seating at the southern edge and southwestern corner of the building; the proposal does not have a single orientation. The only adjacent residentially-zoned site is the RM1 zoned site to the south.

In response to the assertion that approving the Adjustment request will allow a roof patio and seating within the setback, staff notes that the applicant submitted a revised plan set which increased the width of the landscape planter areas along the southernmost seating areas (lower courtyard, stadium seating, and lower rooftop deck) to 4 feet to allow for additional landscape buffer area and to eliminate customer seating areas within the minimum 10-foot building setback for abutting residential lots. (Exhibit C.2).

In response to concerns about there being tables and chairs in the sidewalk area, staff notes that this is not part of the Adjustment requests and, in order for a business to operate in the right-of-way (i.e. sidewalk), a Healthy Businesses Permit (through PBOT) must be reviewed and approved.

Off-site impacts (including noise, odor, and glare) are regulated under Zoning Code Section 33.262.

In response to concerns about potential damage to the neighboring residential building to the south, staff notes that damage to the north wall of neighboring residential building by the proposed business, or damage of any kind, is a civil issue between owners.

ZONING CODE APPROVAL CRITERIA

33.805.040 Adjustment 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 findings for the requested setback and loading space Adjustments are found below.

Setback Adjustment

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, and add ground level and second floor patios connected via an external stairway, which requires an Adjustment to reduce the minimum 10-foot building setback to 6 feet (for commercial lots abutting residential lots) along the south lot line, and to waive the L3 landscaping buffer.

The purpose statement (relevant sections in bold) and associated findings are found below:

33.130.215 Setbacks

The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial/mixed use zones. The setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air, and the potential for privacy for adjacent residential zones.

The front setback requirements for Civic Corridors in Eastern and Western pattern areas provide opportunities for additional pedestrian space and separation from the vehicle traffic along these major streets to create an environment for building users and pedestrians that is less impacted by close proximity to traffic, and provide opportunities for front landscaping reflective of the vegetated characteristics of these neighborhood pattern areas.

The minimum building setbacks along local service streets adjacent to residential zones work together with requirements for step downs in building height (33.130.210.B.2.b.) to ensure that there is a transition in street frontage characteristics to lower scale residential zones. In these situations, the building setback regulations promote street frontages with landscaping and residential uses to provide a transition and a cohesive street environment with similar street frontage characteristics on both sides of the street, and limit exterior display and storage to minimize impacts to nearby residentially-zoned areas.

At the ground level, the proposed building addition at the southeast corner of the site is set back 6 feet from the south lot line for a 6-inch length (partially enclosing and screening the electrical meter area), 8 feet from the south lot line for a 14-foot length (along the north edge of the electrical meter area) and 10 feet from the south lot line for a 34-foot length (at the back of the trash area) (as shown in Exhibit C.2). At the second level “lower rooftop deck,” the building addition is cantilevered over the trash area and electrical meter area and is uniformly 6 feet from the south lot line. A stairway and stadium seating are located to the west of this second level open patio. A ground level open patio (including a “lower courtyard” and “upper courtyard”) area is also proposed. Four-foot-wide planter boxes are proposed along the southern edges of the lower courtyard, stadium seating, and lower rooftop deck to provide a buffer between the customer area and the adjacent residential building. A 6-foot-wide access area (for trash pickup, electric meter access, and deliveries) is proposed along the southern edge of the site.

The residential building adjacent to the project to the south (Trolley car Lofts) includes a solid brick wall at its north façade. The northern facade of Trolley car Lofts is located zero feet from the shared lot line with the subject site. While there are no doors or windows along its northern edge, the 6 units within have partial roof patios. The second level patio of the proposed commercial development includes a smaller patio that is closest to the residential zone, which has a finished surface elevation about 10 feet beneath the top of Trolley car Loft’s parapet, and a larger second level patio which is set back 24 feet from the residential property line and has a finished surface elevation that is 8 feet lower than the top of the parapet (see Exhibit A.2, page 4). Because the second level patios are significantly lower than the Trolley car Lofts parapet, privacy to the residents of Trolley car Lofts will be promoted.

As noted in the *Proposal* section above, the applicant has revised their proposal to reduce the lower courtyard, stadium seating, and lower rooftop deck areas so they are no closer than 10 feet from the south lot line and to include 4-foot wide landscape planters with evergreen shrubs to form a screen 6 feet high. The wider landscaping area and reduced seating area will increase separation and provide additional privacy for Trolley car Lofts, and improve the overall site appearance.

While a full 10 feet of L3 landscape buffer is not proposed (due to access needs and design choices), one new small tree is proposed at the ground level and a 4-foot-wide landscape buffer (via planter boxes) will be provided along the southern edge of the lower courtyard, stadium seating, and lower rooftop deck areas. The planter height is proposed at 2 feet and, when combined with proposed 6-foot-tall shrubs, the vegetation will sit about 8 feet above the patios along the southern edge, where the building setback adjustment is requested. The proposed landscape includes evergreen shrubs to

provide year-round screening. Combined with the revised floorplans which do not provide customer seating within 10 feet of the southern lot line, the landscaping will further promote privacy and provide a transition to the neighboring residences to the south. It will also improve the appearance of the site by providing additional landscaping, as the current development has no landscaping. A condition of approval will require that the landscaped buffer areas along the southern edge of the seating areas (upper courtyard, lower courtyard, stadium seating, and lower rooftop deck) be continuously maintained in a healthy manner. Plants that die must be replaced in kind. A fine may be levied if the landscaping has not been maintained, and new plants required to be planted (to be consistent with Zoning Code Section 33.248.040 Landscaping and Screening Maintenance).

The proposed development is located to the north of the residential property thereby not compromising TrolleyCar Lofts' southern exposure and access to sunlight. Additionally, as noted above, the second level patio area has a finished surface elevation about 10 feet beneath the top of TrolleyCar Loft's parapet, thereby not compromising residential access to light.

As noted above, the southeastern section of the addition is proposed as close as 6 feet to the southern (residentially abutting) property line; however, about 50 feet of the 100-foot length of the southern façade is over 23 feet from the southern lot line, which is a substantial increase in distance over the 10-foot minimum building setback. The average southern façade setback is about 15 feet from the south lot line.

The setback purpose statement works together with the step-down building height requirements but, in this case, there is no step-down height required for the abutting residentially zoned lot line to the south. The maximum height of the structure, including the proposed partial second story addition is about 35-feet, which is about 22 percent lower than the maximum allowed 45-foot building height (Table 130-2). Furthermore, the southernmost 18 feet of the building, where the second level patio is proposed, is only about 14 feet in height. The partial second story addition is proposed to be set back 32 to 36 feet from the southern property line, a substantial distance beyond the minimum 10-foot building setback requirement. The proposed FAR is about 1.58:1 which is significantly lower than the maximum allowed FAR of 2.5:1 in this zone. The significantly reduced height and FAR results in an overall building scale reduction, which will help provide a transition to the adjacent TrolleyCar Lofts development and will also help maintain light and air for residents of this building.

The Fire Bureau has reviewed the request for reduced building setback and offered no concerns with regards to separation for fire protection, or access for firefighting.

Loading Space Adjustment

A second Adjustment is requested to reduce the residential-abutting setbacks for a loading space from 5 feet (landscaped to the L4 standard) to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street. The relevant purpose statements and associated findings are found below:

33.266.310 Loading Standards

A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way.

While the loading space is legally existing, loading spaces are considered “exterior development” and therefore subject to nonconforming landscaping upgrades³, which means that if upgrades cannot be provided to meet current Zoning Code standards (i.e. setback and landscaping requirements), approval through an Adjustment review is required. The existing approximately 24-foot-wide x 90-foot-long paved loading area along the southern edge of the site is proposed to be reduced to 18 feet x 10 feet. As noted above, PBOT responded with no concerns regarding the Adjustment review and noted that reducing the existing curb cut as proposed, from about 24 feet to 10 feet, will add an additional on-street parking space and provide additional street tree plantings (Exhibit E.1).

The northernmost 4 feet of the loading space is proposed to be located between the southernmost building addition and the street, which – when occupied by a loading vehicle – will obscure only about 4% of the 96-foot-wide western building facade. The loading space is located along the southern property line and is connected to the 6-foot access area proposed at the south edge of the site. If the loading area was located anywhere else on site, it would obscure more of the building facade. New landscaping planters are proposed along the entire north edge and 4-foot-long portion of the east edge of the loading space. These planters will include one new small tree and, as noted above, 6-foot-tall evergreen shrubs for year-round screening. Additional new landscape planters (described above) are proposed within the former 24-foot-wide x 90-foot-long paved loading area. These features will help improve the appearance of the loading area and overall site.

As conditioned, 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 subject site is in a Commercial zone. At this location, the City’s Transportation System Plan classifies NW 28th Avenue as a Local Service Street and NW Thurman Street as a Neighborhood Collector, Transit Access Street, and City Bikeway. PBOT has indicated no concerns regarding the proposal’s consistency with the classification of adjacent streets.

Desired character of area

“Desired character” is defined in Zoning Code Chapter 33.910:

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.*

Pursuant to this definition, the desired character of this site is determined by the character statement of the CM2 zone, the purpose statements of the Design Overlay Zone and the Northwest Plan District, the Portland Citywide Design Guidelines, and the [Northwest District Plan](#).

CM2 zone

The character statement for the CM2 zone is in Zoning Code Section 33.130.030.C:

The Commercial/Mixed Use 2 (CM2) zone is a medium-scale zone intended for sites in a variety of centers, along corridors, and in other mixed use areas that have

³ Because the project valuation exceeds \$1 Million, nonconforming upgrades are required for this project.

frequent transit service. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to four stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, provide a strong relationship between buildings and sidewalks, and complement the scale of surrounding residentially zoned areas.

The Adjustment requests are to reduce the building and loading area setbacks and landscaping requirements along a residential-abutting lot line and to allow a portion of the loading area to be between the building addition and the street. As noted above, the addition proposed within the setback is a single-story addition with a roof patio which sits about 10 feet below Trolley car Loft's parapet, and landscape screening via planter boxes along the southern edge of the patio. The proposal includes only a partial second-story addition, which will be well under the maximum four stories, and will therefore complement the scale of surrounding residentially zoned areas. The paved and legally existing loading area along the southern edge of the site is proposed to be significantly reduced/narrowed, which will add an additional on-street parking space.

The proposed additions, patios, and loading area will be consistent with the CM2 zone's intentions of providing commercial uses with limited off-site impacts in an area with transit service (Including TriMet bus Line 26 along Northwest Thurman). The pedestrian-oriented development will be supportive of transit.

For these reasons, staff finds the proposal is consistent with the character statement for the CM2 zone.

Design Overlay Zone

The site is in the Design overlay zone, the purpose for which is in Zoning Code Section 33.420.010:

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- *Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;*
- *Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and*
- *Promotes quality and long-term resilience in the face of changing demographics, climate and economy.*

Rather than demolishing the existing commercial building, the applicant is proposing a renovation which will include 9 new, full-story ground floor windows along the north and west facades (currently windowless), new outdoor patios (including roof patios), and a partial second story. The new windows, as well as the proposed restaurants, indoor seating, and outdoor patio seating will encourage social interaction and foster inclusivity in people's daily experience and allow for year-round use regardless of the climate. While the 10-foot minimum building setback is proposed to be reduced to 6 feet, the applicant is providing a 10-foot distance (4 feet of which must be landscaped as described above) between the outdoor patio seating areas and the neighboring residential building to the south in order to build on the unique context of this site: a commercially zoned corner lot with an existing commercial building adjacent to residential zoning/development to the south.

Trash, delivery, and electric utility access are proposed at the southeast corner of the site where these areas will remain out of public view and away from the street facing façades. Unlike typical brick and mortar restaurants, the applicant is proposing 6 – 10 tenants, which could range from food vendors to artist gallery spaces (as noted in Exhibit A.2). By allowing multiple tenants with a range of retail sales and service uses, the commercial building should have flexibility for changing tenants and smaller scale restaurants and will therefore promote long-term resilience in the face of changing demographics and economy.

For these reasons, staff finds the proposal is consistent with the purpose statement for the Design overlay zone.

Northwest Plan District

The Northwest Plan District purpose statement can be found in Zoning Code Section 33.562.010:

The Northwest plan district implements the Northwest District Plan, providing for an urban level of mixed-use development including commercial, office, housing, and employment. Objectives of the plan district include strengthening the area's role as a commercial and residential center. The regulations of this chapter:

- *Promote housing and mixed-use development;*
- *Address the area's parking scarcity while discouraging auto-oriented developments;*
- *Enhance the pedestrian experience;*
- *Encourage a mixed-use environment, with transit supportive levels of development and a concentration of commercial uses, along main streets and the streetcar alignment; and*
- *Minimize conflicts between the mixed-uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary*

The proposed commercial development will achieve the Northwest Plan's objective of creating an urban level of mixed-use development. Along the north edge of the site, NW Thurman Street is classified as a "main street" (Portland Zoning Code per Map 562-7). The proposed renovation and additions will support a mix of different retail sales and service uses on a site with transit access and will therefore encourage transit supportive levels of development and a concentration of commercial uses along a main street. The proposal will also help strengthen the area's role as a commercial and residential center by providing additional commercial uses in an area with existing low, medium, and higher-density residential development. The proposed commercial building additions and renovations will enhance the pedestrian experience by including multiple retail sales and service options in a single building and providing outdoor patios.

As noted above, parking is not required for the proposal or relevant to the Adjustment request. No conflicts are anticipated between the mixed uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary.

For these reasons, staff finds the proposal is consistent with the purpose statement for the Northwest Plan District.

Portland Citywide Design Guidelines

The Portland Citywide Design Guidelines consist of a set of guidelines for design cases in community planning areas outside of the Central City. The Portland Community Design Guidelines focus on three tenets: **Context**, balancing the aspirations of the future desired character with today's setting; **Public Realm**, strengthening a building and site's relationship with the public rights-of-way and open spaces; and **Quality and**

Resilience, underscoring holistic site and building designs that benefit people and climate.

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

02: Create positive relationships with surroundings.

Possible design approaches may include, but are not limited to:

- *Building Massing – Developing effective placement and proportion of building massing toward adjacent lower-scale development and residential uses; and*
- *Street Wall – Maintaining a vibrant street wall with continuous storefronts along historic main streets.*

03: Integrate and enhance on-site features and opportunities to contribute to a location's uniqueness.

Possible design approaches may include, but are not limited to:

- *On-site older buildings and historic resources – retaining existing older buildings and historic resources; and*
- *Social and cultural significance – Incorporating a site's significant cultural or social history*

As noted above, the southeastern section of the addition is proposed as close as 6 feet to the southern property line; however, about half of the southern façade is much farther away, which helps offset the building's overall massing. The height of the proposed building (ranging from 14 to 35 feet) is 10 feet lower than the 45-foot height limit. The patio closest to the southern lot line sits about 10 feet lower than the top of Trolleycar Loft's parapet. The reduced massing and height and the step-down building design from north to south help provide a transition to the adjacent multi-dwelling development to the south.

As noted above, the applicant is proposing renovations and additions rather than demolishing the existing commercial building. The building design preserves the historic eastern half of the north façade (facing NW Thurman Street), which has special features including a corbeled brick parapet, entablature, large store windows and transom windows, and a decorative belt course above the windows (see Adjustment Criterion D below for additional information about the historic resource) and adds large ground floor windows along the remaining windowless portions of the north and west facades, strengthening the storefront connection to the commercial corner of NW Thurman Street and NW 28th Avenue.

The paved and legally existing loading area along the southern edge of the site (approximately 24-foot-wide x 90-foot-long) has been in use for over 60 years. As part of this Adjustment request, it is proposed to be reduced to an area of 18 feet x 10 feet. As noted above, PBOT responded with no concerns regarding the Adjustment review and noted that reducing the existing curb cut as proposed, from about 24 feet to 10 feet, will add an additional on-street parking space and provide additional street tree plantings.

05: Provide opportunities to pause, sit, and interact.

Possible design approaches may include, but are not limited to:

- *Seating – providing a variety of seating types for passersby and building users;*
- *Enclosure - Offering a comfortable buffer and distinction from the public realm; and*
- *Trees and Landscaping - Promoting health and wellness by helping to mitigate the effects of urban heat island.*

In addition to indoor seating, several different outdoor patio spaces are proposed to support the restaurant or other uses, including lower and upper “courtyards” at the ground level, a “stadium seating” area adjacent to the external stairway, which leads up to a “lower rooftop deck” and a “back rooftop deck” at the south side of the building (per

Exhibit C.2 Floorplans). A covered patio is also proposed at the northwest corner of the second floor. The terraced, connected outdoor areas will provide a variety of seating types for customers and will be connected to the interior spaces via entrance doors. An elevator is also proposed at the south edge of the second story addition for improved accessibility.

There is currently no landscaping on site. As noted above, one new small tree is proposed at the ground level and 4-foot-wide landscape planters with evergreen shrubs to form a 6-foot-high screen will be provided along the southern edge of the outdoor seating areas. Additional landscape planters are proposed outside of the setback area ranging from 3-feet-2-inches-wide (at the ground level between the upper courtyard and the loading space) to 2.5-feet-wide (at the south and west edges of the back rooftop deck). The landscaping will offer a comfortable buffer and distinction from the public realm and will also promote privacy and provide a transition to the neighboring residences to the south. The landscaping will also promote health and wellness by helping to mitigate the effects of urban heat island.

For these reasons, staff finds the proposal is consistent with the Portland Citywide Design Guidelines.

Northwest District Plan

The Northwest District Plan is intended to guide public and private decision-making and investment in the Northwest District. The plan provides policy direction in a number of key areas including land use, urban design, transportation, housing, and economic development. Staff has considered all objectives and has addressed only those considered applicable to this project. The subject site is classified as a *Streetcar Main Street* site (Map 4, Page C-15) and the *Desired Characteristics and Traditions* of these Streetcar Main Street sites are as follows:

The Streetcar Era structures that define the character of the main streets, portions of which are located within the Alphabet Historic District, should be preserved or adaptively reused. New development should incorporate architectural features that characterize the district's main streets, such as large storefront windows, awnings and upper-story residences, and should continue the historic pattern of a continuous frontage of buildings and active uses located close to sidewalks. Large retail developments should be integrated into the main streets' fine grain urban pattern and mix of uses through strategies such as including spaces suitable for small tenants along street frontages or by including upper-floor residences. Where appropriate, development should include outdoor space for dining and other activities that contribute to a vibrant urban environment. Disruptions to the continuity of the main street pedestrian environment by curb cuts, driveways, garage fronts and surface parking areas should be avoided. (Page C-18)

The open courtyard spaces at the south side of the building will provide active outdoor space for dining and a direct connection to the NW 28th Avenue right-of-way. The north and west facades of the existing building are zero feet from the sidewalks along NW Thurman Street and NW 28th Avenue, and will remain in this location. New, large, storefront windows are proposed to be added at the northwest corner of the building while retaining the historic character of the building (see Adjustment Criterion D below for additional information about the historic resource). The existing loading space curb cut is proposed to be reduced, which will add an additional on-street parking space and provide additional street tree plantings.

Land Use Objectives (Page E-6)

C. Concentrate a mix of higher intensity residential and commercial development along main streets and the Portland Streetcar line.

D. Reinforce main streets and the Portland Streetcar line as the focus for retail activity in the District.

Business and Economic Development Objectives (Page E-34)

- B. Encourage commercial development that is oriented to pedestrians.*
- E. Encourage new commercial development and job creation opportunities to locate along main streets, the Portland Streetcar line, and close to the I-405 freeway.*

Urban Design Objectives (Page E-38)

- A. Integrate new development with the existing urban fabric by acknowledging the scale, proportions, orientation, quality of construction and other architectural and site design elements of the building's immediate area.*

Thurman-Vaughn Subarea⁴ Objectives (Page E-70)

- A. Enhance NW Thurman Street as a neighborhood-oriented main street that is primarily residential, with commercial uses clustered at intersections.*

The proposed multi-tenant, retail sales and service use building would concentrate higher intensity commercial development at NW Thurman Street (which is classified as a *Main Street*) and would reinforce this street/intersection as a focus for retail activity in the Northwest District. The outdoor terraced seating areas with immediate access from the NW 28th Avenue sidewalk would encourage development that is oriented to pedestrians. Rather than proposing a demolition of the existing building, the applicant is proposing a renovation, which will maintain the historic character of the building while providing an appropriately scaled expansion.

For these reasons, staff finds the proposal is consistent with the purpose statement for the Northwest District Plan.

For all the reasons listed above, staff finds this proposal is consistent with the desired character of the area.

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:

As noted above, the character statement for the CM2 zone is:

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

As noted above, under Criterion B, the Adjustment requests are to reduce the building and loading area setbacks and landscaping requirements along a residential-abutting lot line. The addition proposed within this setback is a single-story addition with a roof patio which sits about 10 feet below Trolleycar Loft's parapet, and landscape screening via planter boxes along the southern edge of the patio. The proposal includes only a partial second-story addition, which will be well under the maximum four stories, and will therefore complement the scale of surrounding residentially zoned areas.

⁴ Per Map 5 (Page E-3), the subject site is identified as being in the Thurman-Vaughn Subarea.

While both Adjustment requests are to reduce residential-abutting setbacks and landscaping, the loading area is legally existing along the southern edge of the site, and is proposed to be significantly reduced and narrowed. Allowing a loading space to remain at zero feet from the residential-abutting lot line will not affect the scale of the proposed development on the adjacent residentially zoned site, and may reduce off-site impacts by adding an additional on-street parking space and allowing deliveries and maintenance to happen on-site rather than blocking NW 28th Avenue.

Because of the reduced height and scale of the overall building, and because of the loading area reduction and limited impacts, cumulative effects will be minimal and the proposed additions, patios, and loading area will be consistent with the CM2 zone's intentions of providing pedestrian-oriented commercial uses with limited off-site impacts in an area with transit service.

For these reasons, staff finds the proposal is consistent with the character statement for the CM2 zone.

This criterion is met.

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

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. This site is marked with a dot and designated as a “documented resource.” The existing building was originally built between 1914 and 1921 and is classified as an eligible/contributing building in the Historic Resource Inventory. The eastern half of the Thurman Street façade has a corbeled brick parapet, entablature, and a decorative belt course above the windows. Additional special features include large store windows and transom windows. These features will all be retained. Much of the exterior façade has been remodeled with new doors, windows, asphalt siding, and plywood. While the partial second-story addition will change the appearance of this façade, the roof profile at the historic portion of the building (described above), will remain as is, thus preserving the historically significant features of the front (north) façade.

As noted above in Criterion B, large, ground-floor windows along the remaining windowless north and west facades are proposed. Much of the original siding on this non-historically contributing section of the building is brick but was covered up by vertically clad composite material. This composite material will be removed, and brick will be repaired/replaced as necessary. This brick siding at the ground level will better match the historically significant front façade and help unify the building's design.

This criterion is met.

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

Findings:

While an Adjustment is requested to reduce the minimum residential-abutting (south) building setback from 10 feet to 6 feet at the southeastern addition to the building, the significantly reduced height and FAR (described under Criterion A above) reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.

While a full 10 feet of L3 landscape buffer is not proposed, one new small tree is proposed at the ground level and 4-foot-wide landscape planters will be provided along the southern edges of the “lower rooftop deck” and “lower courtyard” seating areas with 6-foot-tall evergreen shrubs. Combined with the revised floorplans which do not provide customer seating within 10 feet of the southern lot line, the landscaping will promote

privacy and provide a transition to the neighboring residences to the south. It will also add landscaping to a currently barren site. A condition of approval will require that the landscaped buffer areas be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

In order to address neighbor concerns about customer noise on the patios, particularly at night, the applicant has proposed a new gate/fence at the southwestern edge of the site to limit access when the business is closed (to be in compliance with City of Portland zoning and building code requirements) and signage at all patio access doors (2 on the ground level and 2 at the upper level) stating: "South outdoor areas closed to customers after 10 PM."

As conditioned, 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 Map with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, this criterion is not applicable.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space. Two Adjustments are requested to:

1. reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer; and
2. reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street (NW 28th Avenue).

While an Adjustment is requested to reduce the minimum residential-abutting (south) building setback from 10 feet to 6 feet at the southeastern addition to the building, about half of the southern façade is over 23 feet from the southern lot line, which is a substantial increase in distance over the 10-foot minimum building setback, and helps offset the building's overall massing. Additionally, the maximum height of the structure, including the proposed partial second story addition is approximately 35-feet, which is substantially lower than the maximum allowed 45-foot building height. Furthermore, the southernmost 18 feet of the building, where the second level patio is proposed, is only about 14 feet in height, and sits about 10 feet lower than the top of Trolleycar Loft's parapet. The partial second story addition is proposed to be set back 32 to 36 feet from the southern property line, resulting in a step-down building design from north to south. The significantly reduced height and FAR (compared to what the CM2 zone allows) reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.

While a full 10 feet of L3 landscape buffer is not proposed, one new small tree is proposed at the ground level and 4-foot-wide landscape planters with 6-foot-tall evergreen shrubs will be provided along the southern edge of the seating areas where the building setback and landscaping adjustment is requested. Combined with the revised floorplans which do not provide customer seating within 10 feet of the southern lot line, the landscaping will promote privacy and provide a transition to the neighboring residences to the south. It will also improve the appearance of the site by providing additional landscaping, as the current development has no landscaping. A condition of approval will require that the landscaped buffer areas be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

The existing 24-foot-wide x 90-foot-long paved loading area along the southern edge of the site is proposed to be reduced to 18 feet x 10 feet. PBOT responded with no concerns regarding the Adjustment review and noted that reducing the existing curb cut as proposed, from about 24 feet to 10 feet, will add an additional on-street parking space and provide additional street tree plantings. The northernmost 4 feet of the loading space is proposed to be located between the southernmost building addition and the street, which will obscure only about 4% of the western building facade. The loading space is located along the southern property line and is connected to the 6-foot access area proposed at the south edge of the site. If the loading area was located anywhere else on site, it would obscure more of the building façade. New landscaping planters are proposed along the entire north edge and a portion of the east edge of the loading space, as well as within the existing 24-foot-wide x 90-foot-long paved loading area. These features will help improve the appearance of the loading area and overall site.

The “desired character” of this site is determined by the character statement of the CM2 zone, the purpose statements of the Design Overlay Zone and the Northwest Plan District, the Northwest District Plan, and the Portland Citywide Design Guidelines.

- The proposed additions, patios, and loading area will be consistent with the CM2 zone’s intentions of providing commercial uses with limited off-site impacts in an area with transit service.
- Rather than demolishing the existing commercial building, the applicant is proposing a renovation which will include 9 new, full-story ground floor windows along the (currently windowless) north and west facades, and new indoor dining and outdoor patio seating, which will encourage social interaction and foster inclusivity in people’s daily experience and allow for year-round use regardless of the climate. Trash, delivery, and electric utility access are proposed at the southeast corner of the site where these areas will remain out of public view and away from the street facing façades. By allowing multiple tenants with a range of retail sales and service uses, the commercial building should have flexibility for changing tenants and smaller scale restaurants, and will therefore promote long-term resilience in the face of changing demographics and economic conditions. For these reasons, staff finds the proposal is consistent with the purpose statement for the Design Overlay Zone.
- The proposal will include a mix of different retail sales and service uses on a site with transit access and will therefore encourage a concentration of commercial uses along NW Thurman (classified as a “main street”), strengthen the area’s role as a commercial and residential center, and enhance the pedestrian experience. For these reasons, staff finds the proposal is consistent with the purpose statements for the Northwest Plan District and the Northwest District Plan.
- The building design preserves the historic portions of the north façade and adds ground floor windows along the remaining portions of the north and west facades, strengthening the storefront connection to the commercial corner of NW Thurman Street and NW 28th Avenue. The proposed indoor and outdoor dining areas will provide a variety of seating types for customers and will be connected externally via stairways and internally via entrance doors. An elevator is also proposed at the south edge of the second story addition for improved accessibility. The proposed landscaping will offer a comfortable buffer and distinction from the public realm and promote health and wellness by helping to mitigate the effects of urban heat island. For these reasons, staff finds the proposal is consistent with the Portland Citywide Design Guidelines.

Because of the reduced height and scale of the overall building, and because of the loading area reduction and limited impacts, cumulative effects will be minimal and the proposed additions, patios, and loading area will be consistent with the CM2 zone's intentions as stated above.

The existing building was originally built between 1914 and 1921 and is classified as an eligible/contributing building in the Historic Resource Inventory. The eastern half of the Thurman Street façade has a corbeled brick parapet, entablature, and a decorative belt course above the windows. Additional special features include large store windows and transom windows. These features will all be retained. While the partial second-story addition will change the appearance of this façade, the roof profile at the historic portion of the, will remain as is, thus preserving the historically significant features of the front façade. Much of the original siding on this non-historically contributing section of the building is brick but was covered up by vertically clad composite material. This composite material will be removed, and brick will be repaired/replaced as necessary. The brick siding will better match the historically significant front façade and, along with the new ground floor windows, will help unify the building's design.

Impacts resulting from the Adjustments are mitigated to the extent practical as follows:

- The significantly reduced height and FAR reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.
- Customer seating will not be provided within 10 feet of the southern lot line
- The landscaping will promote privacy, provide a transition to the neighboring residences to the south, and improve the appearance of the site.
- In order to address neighbor concerns about customer noise on the patios, particularly at night, the applicant has proposed a new gate/fence at the southwestern edge of the site to limit access when the business is closed and signage at all patio access doors (2 on the ground level and 2 at the upper level) stating: "South outdoor areas closed to customers after 10 PM."

The proposal meets the applicable approval criteria and approval is therefore recommended.

ADMINISTRATIVE DECISION

Approval of 2 Adjustments to:

1. reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer(Section 33.130.215.B, Table 130-2); and
2. reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street (NW 28th Avenue) (Section 33.266.310.E, Table 266-8)

as part of a larger proposal to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space, per the approved plans and elevations, Exhibits C-1 through C-3, signed and dated February 28, 2023, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 22-159396 AD." All requirements must be graphically represented on the site plan, landscape, or other required plans and must be labeled "REQUIRED."

- B. The landscaped buffer areas along the southern edge of the seating areas (upper courtyard, lower courtyard, stadium seating, and lower rooftop deck, as shown on Exhibit C.2) must be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

Staff Planner: David Besley



Decision rendered by: _____ **on February 28, 2023.**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 3, 2023

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

Procedural Information. The application for this land use review was submitted on July 1, 2022, and was determined to be complete on October 31, 2022.

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 July 1, 2022.

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 requested that the 120-day review period be extended a maximum 245 days. **The 365-day extended review period (120 days + 245 day extension) will expire on: October 31, 2023.**

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 decision 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.

Appealing this decision. This decision may be appealed to the Adjustment Committee, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on March 17, 2023. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this**

decision. If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

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

Unless appealed, the final decision will be recorded after **March 17, 2023** by the Bureau of Development Services.

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

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

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

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

Applying for your permits. A building permit, occupancy permit, or development permit 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.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

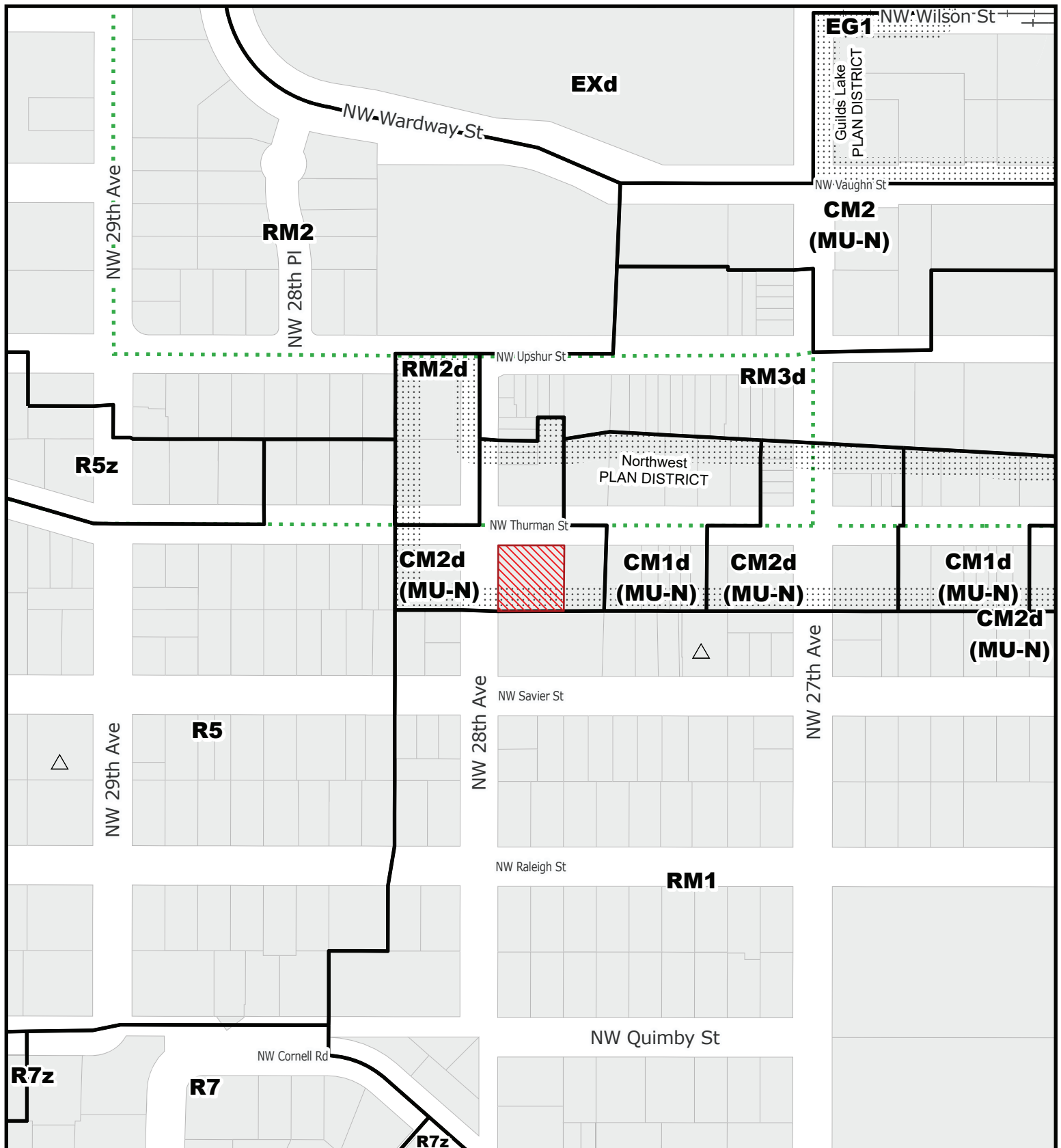
- A. Applicant submittal:
 - 1. Narrative
 - 2. Response to neighbors
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Floor Plans (attached)
 - 3. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Life Safety Section of BDS
 - 3. Bureau of Environmental Services
 - 4. Fire Bureau
 - 5. Bureaus responding with no concerns (Site Development Section of BDS and Water Bureaus)
- F. Correspondence:
 - 1. Elizabeth Rusch, 11/14/22, support letter
 - 2. Mary DeVries, 12/8/22, opposition letter
 - 3. John and Jo Ann Utz, 12/5/22, opposition letter
 - 4. Claire Hanway, 12/5/22, support letter
 - 5. Peter Beninato, 12/5/22, opposition letter
 - 6. Mike Kirk, 12/5/22, support letter
 - 7. Tom Barbara, 12/7/22, opposition letter
 - 8. Richard Hicks, 12/7/22, opposition letter
 - 9. Linda Walton, 12/7/22, opposition letter
 - 10. Greg Passmore, 12/7/22, support letter
 - 11. John DeVoe, 12/7/22, opposition letter
 - 12. Susie Stragnell, 12/7/22, opposition letter
 - 13. Glenn and Deanna Ford, 12/7/22, opposition letter 12/7/22, opposition letter
 - 14. Reinier Warschauer, 12/7/22, opposition letter
 - 15. Lisa Taaffe, 12/7/22, opposition letter
 - 16. Izhak Shafran, 12/7/22, opposition letter
 - 17. Sue Galatz, 12/8/22, opposition letter 2/8/22, opposition letter
 - 18. Greg Simons and Anne Harris, 12/8/22, opposition letter
 - 19. Shelley Jordan, 12/8/22, opposition letter
 - 20. Martin Davidson, 12/8/22, opposition letter
 - 21. Joni Marie Johnson, 12/8/22, opposition letter
 - 22. Gayle Kvernland, 12/8/22, opposition letter
 - 23. Patrick Kehoe, 12/8/22, opposition letter
 - 24. James Thompson, 12/8/22, opposition letter
 - 25. Northwest District Association (NWDA), 12/8/22, support letter
 - 26. Lisa Selman, 12/8/22, opposition letter
 - 27. David Greenstein, 12/8/22, opposition letter
 - 28. Olivia Horgan, 12/8/22, opposition letter
 - 29. Jim McAdoo/TLHOA , 12/8/22, opposition letter
 - 30. Mark Samuel and Wanda Meyer-Price, 12/8/22, opposition letter
 - 31. Bob Clay, 12/8/22, opposition letter
 - 32. Susan Stone, 12/8/22, opposition letter
 - 33. Regna Merritt, 12/8/22, opposition letter

34. Elliot Levin, 12/8/22, opposition letter
35. Jill Walworth, 12/8/22, opposition letter
36. Ernest Cooper, 12/8/22, support letter
37. Stacey Vallas, 12/8/22, opposition letter

G. Other:

1. Original LU Application and Receipt
2. Incompleteness determination letter, dated July 28, 2022
3. Request for Extension of 120-Day Review Period signed by applicant, dated January 2, 2023

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).



For Zoning Code in effect Post August 1, 2021

ZONING



THIS SITE LIES WITHIN THE:
NORTHWEST PLAN DISTRICT



Site



Historic Landmark



Recreational Trails

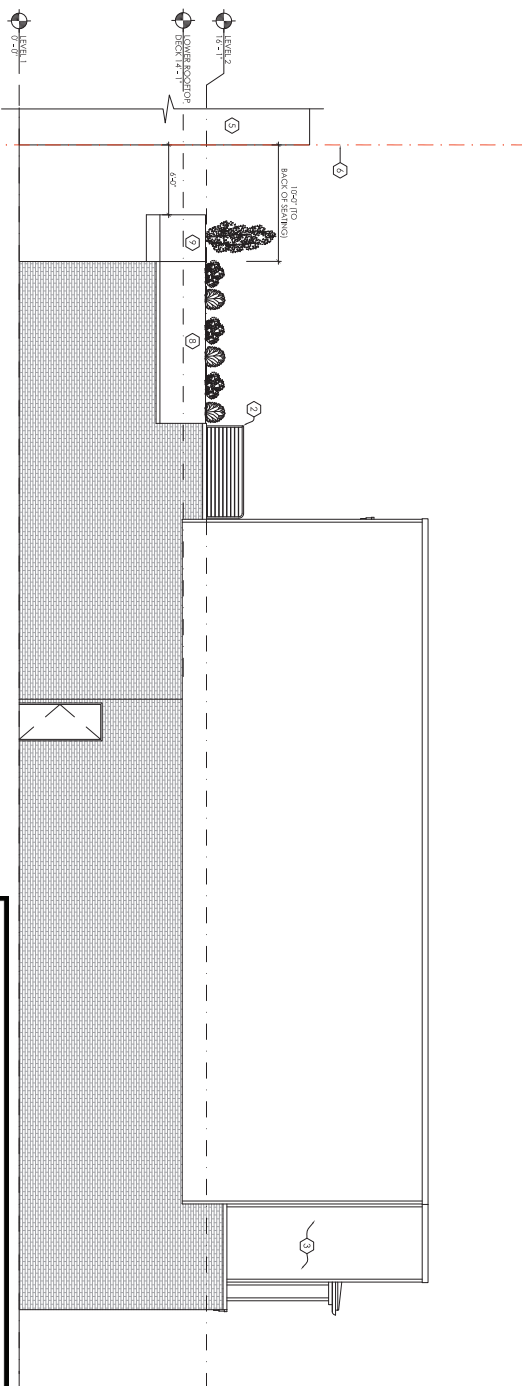
File No. LU 22 - 159396 AD

1/4 Section 2826

Scale 1 inch = 200 feet

State ID 1N1E29DC 8600

Exhibit B Jul 05, 2022



1 EAST ELEVATION

$$3/16" = 1'-0"$$

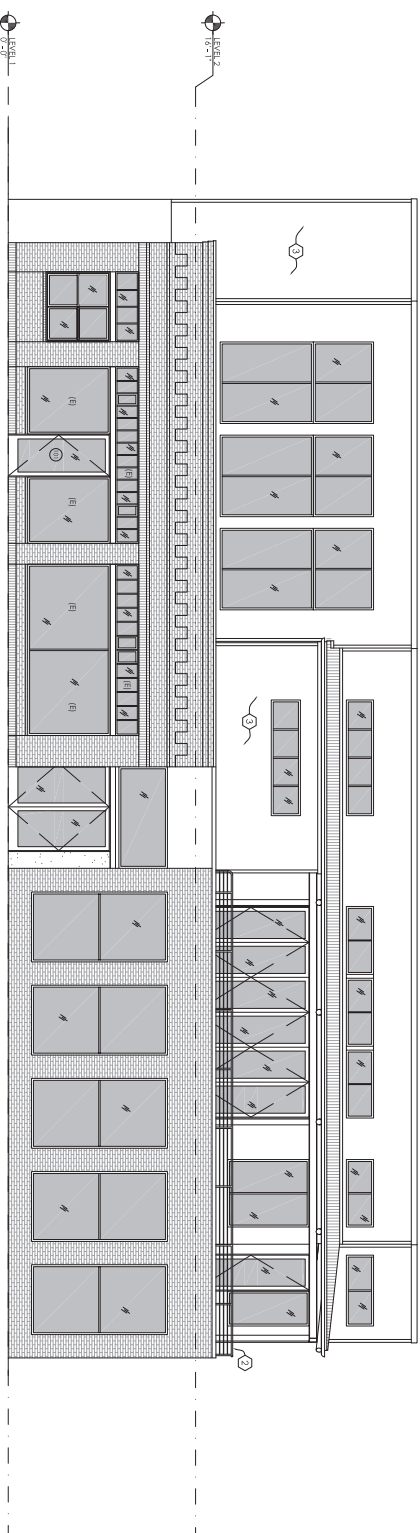
Approved

City of Portland
Bureau of Development Services

David Besley
Planner

Date **2/28/23**

*This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



2 NORTH ELEVATION

$$\frac{3}{16}'' = 1'-0''$$

Exh. C.3

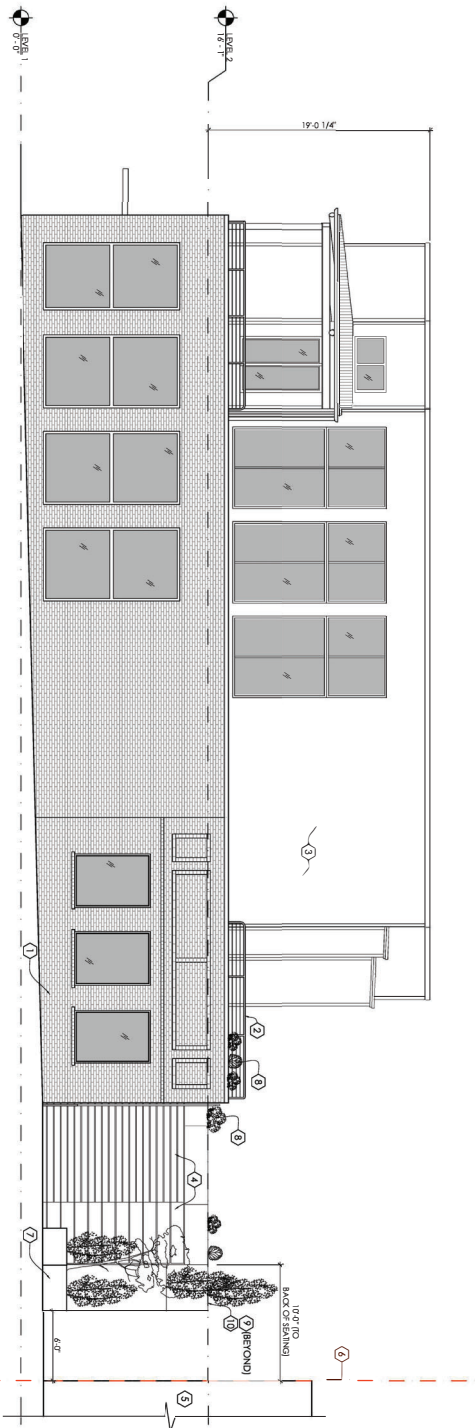
LU 22-159396 AD

EXTERIOR ELEVATIONS

A3.1

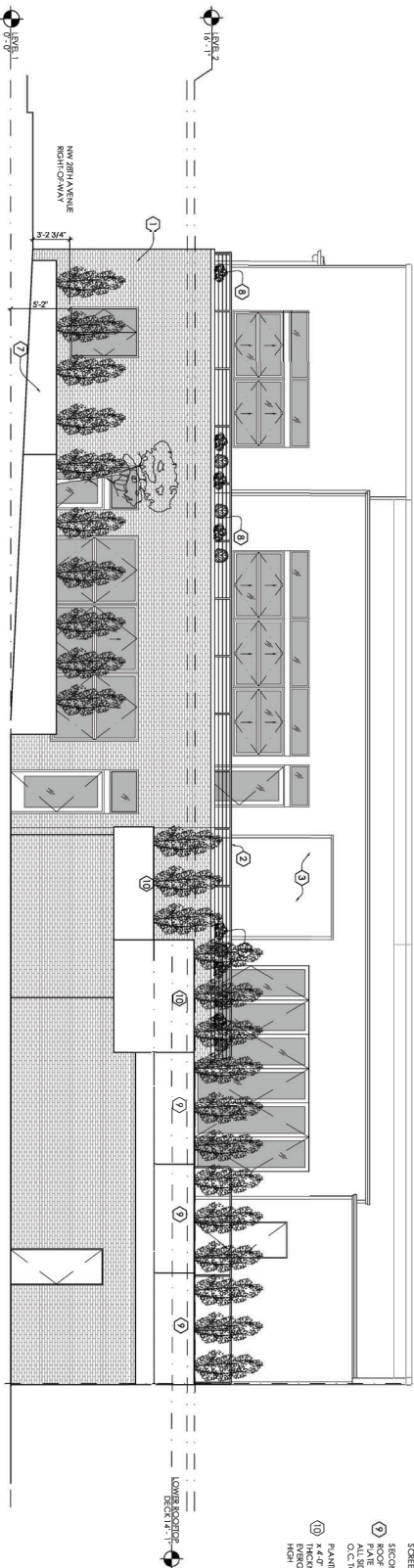
Zoning Adjustment
February 7, 2023
Thurman Food Hall
774-2788 NW Thurman St.
Portland, OR

INTEGRATE
ARCHITECTURE & PLANNING
www.integratearch.com
© Integrate Architecture & Planning, Inc.



1 WEST ELEVATION
3/16" = 1'-0"

Approved
City of Portland
Bureau of Development Services
Planner **David Besley**
Date **2/28/23**
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



2 SOUTH ELEVATION
3/16" = 1'-0"

KEY NOTES

- 1 EXISTING MASONRY WALL
- 2 BALCONY GLAZED BAL
- 3 NEW SECOND FLOOR WALLS BEYOND
- 4 NEW STAIR AND BALCONY TO SECOND FLOOR BALCONY AREA ABOVE
- 5 EXISTING TROUBLE COW LOT BUILDING ADJACENT TO SOUTH SIDE OF SITE SEE EXHIBIT 2
- 6 SOUTH PROPERTY LINE
- 7 NEW LANDSCAPE PLANTER 2' METAL PLATE 8' HIG PLANTER WALL THICKNESS POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 8' HIGH
- 8 PLANTER WALL THICKNESS POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 8' HIGH
- 9 SECOND FLOOR LANDSCAPE PLANTER, LANDSCAPE PLANTER AT SECOND FLOOR BALCONY/ROOF TOPS DEDICATED TO BE 2' METAL PLATE PLANTER WALL THICKNESS POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 8' HIGH
- 10 SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER PLATE (PLANTER WALL THICKNESS POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH
- 11 PLANTER AT SOUTH SIDE OF STAIRS ELEVATIONS, 10'x11' PLANTER WALL THICKNESS POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH

Exh. C.3
LU 22-159396 AD

January 12, 2023

David Besley, City Planner
City of Portland Development Services
Planning and Zoning

Subject: Zoning adjustment for 2774-2788 NW Thurman Street, LU 22-159396 AD and EA 21-111744

Zoning: CM2d / Northwest Plan District

Project Description:

Re-purposing the windowless tavern into a vibrant open commercial / restaurant space supporting several small businesses, seismic stabilization of the existing URM building and adding a second floor with open space for outdoor seating to support the local neighborhood

List of submitted exhibits / attachments:

Exhibit 1 – Copy of EA notes.

Exhibit 2 – Site plan and partial floor plans indicating setback and landscaped planters.

Exhibit 3 – Existing Conditions Image

Exhibit 4 – Trolley Car Lofts existing floor plan

Summarize the adjustments request below:

Adjustment 1 - The property to the immediate south is zoned RM1 requiring a 10'-0" building setback landscaped to meet the L3 standard listed in zoning code section 33.248. The proposal reduces the south property line setback to 6'-0" at the and waive the L3 landscaping buffer along the south property line.

Adjustment 2 – The loading zone is at the SW corner, accessible from the NW 28th Avenue ROW. Table 266-8, Minimum Loading Area Setback and Perimeter Landscaping, under zoning code section 33.266.310, requires:

A minimum 5' setback and landscaping to the L4 standard along the south shared property line

The proposal reduces the NW 28th Ave street and residential-abutting setbacks and perimeter landscaping to 0' and to waive the landscaping requirement along the street and south property line. Please note that The existing 26'-2" curb cut along NW 28th Ave shall be reduced to the width of the revised loading area of 10'-0".

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified, and:

Adjustment 1: The site is in a CM2 zone, and the south property line is shared with an RM1 zone which houses the Trolley car Lofts condominiums (**see exhibit 4**).

33.130.215 Setbacks

"The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial/mixed use zones. The setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air, and the potential for privacy for adjacent residential zones.

The front setback requirements for Civic Corridors in Eastern and Western pattern areas provide opportunities for additional pedestrian space and separation from the vehicle traffic along these major streets to create an environment for building users and pedestrians that is less impacted by close proximity to traffic, and provide opportunities for front landscaping reflective of the vegetated characteristics of these neighborhood pattern areas.

The minimum building setbacks along local service streets adjacent to residential zones work together with requirements for step downs in building height (33.130.210.B.2.b.) to ensure that there is a transition in street frontage characteristics to lower scale residential zones. In these situations, the building setback regulations promote street frontages with landscaping and residential uses to provide a transition and a cohesive street environment with similar street frontage characteristics on both sides of the street, and limit exterior display and storage to minimize impacts to nearby residentially-zoned areas."

The intent of the zoning setback requirement is to "maintain light, air, and the potential for privacy for adjacent residential zones." The proposed layout meets this goal as below;

- The proposed first floor layout (**see exhibit 2**) exceeds the 10' minimum setback along the majority of the south property line by more than double the minimum required setback thereby preserving light, air, and the potential for privacy;
- The proposed property is located to the north of the residential property thereby not compromising the residential property's southern exposure
- The neighboring residential property is constructed at a zero lot line and consists of a solid 23' in height brick wall running the length of the common property line, thereby functioning as a buffer between properties that exceeds any L3 screening requirement;
- The proposal includes a 41'-6" long landscaped planter that provides a buffer for the first floor courtyard area, running parallel to the south property line.
- A 6'-0" setback from the south property line is provided at the second floor landscaped planter and open stair planter at the southeast half of the courtyard. The landscape planter provides a buffer to an open courtyard seating area, which is 2'-0" lower than the second floor, to reduce its impact. This results in an 10'-0" buffer between the useable balcony area and the south property line. The enclosed second floor of the building is setback approximately 35'-0" from the southern property line.
- The second level patio that is 10' from the southern property line has a finished floor elevation 11' lower than the top of parapet of the residential property.

We believe that the project design continues to meet the intended purpose of the zoning code with the addition of the landscaping upgrades being proposed and maintaining over

twice the required 10' setback for the westernmost half of the southern property line. With respect to privacy for the adjacent residential zoned property, it should be noted that the neighboring RM1 zoned property on the south property line (**Exhibits 3 & 4**) is condominium re-development that was constructed at a zero-lot line and consists of a solid brick wall that is on average 23'-0" in height for the entire length of the shared property line.

Adjustment 2:

33.266.310 Loading Standards

"A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way."

The current permitted loading zone is being maintained and its surface improved to co-exist with the open courtyard and support the necessity of servicing the property. **Exhibit 3** shows the current loading zone and curb cut. The loading zone meets Standard B identified in 33.266.310.D.2 and was originally permitted per permit # 395581 and has been actively maintained as a loading zone, servicing the building tenants. A landscaping planter will be provided along the entire north side of the loading zone and courtyard at grade to add landscaping elements and function as a buffer. Please see the proposed site plan and partial floor plan (**exhibit 2**) for the planter which is a total of 42'-6" in the east to west direction and shall include the following plants:

- Evergreen shrubs at 4'-0" to form a screen 6' high
- (1) small deciduous or evergreen tree
- Ground cover to fully cover planter area

All plants shall comply with the requirements of the *Suggested plant lists for required Landscaping* manual.

B. If in a residential, C11, 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 C12 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

The classifications of the adjacent streets are as follows:

Street Name	Traffic	Transit	Bicycle	Pedestrian	Freight	Design
NW Thurman St	Neighborhood Collector	Transit Access Street	City Bikeway	Major City Walkway	Local Service Truck St.	Neighborhood Corridor
NW 28 th Ave	Local Service	Local Service	Local Service	Neighborhood Walkway	Local Service	Local Street

Separately from the Adjustment Review, PBOT reviews building proposals and requires developers to construct street improvements proportional to the impacts of the development. The sidewalks within the right-of-ways on both Thurman Street and NW 28th Avenue shall be rebuilt to meet the current criteria of PBOT and Urban Forestry and shall

have furnishing zones, street tree plantings, and bicycle parking – all in support of the goals of the Northwest Plan District. The existing 26'-2" curb cut will be reduced to 10'-0" to serve the revised loading area which will also provide additional on street parking for the neighborhood.

The proposed Adjustments will not, in themselves, affect traffic levels or demand for transit, bike, pedestrian, or freight facilities. Therefore, the proposed Adjustments will not affect the adjacent street classifications.

Desired character of area:

Desired character" is defined in Zoning Code Chapter 33.910:

"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 desired character of the site is determined by the character statement of the CM2 zone, the purpose statements of the Design Overlay Zone and Northwest Plan District, and the desired characteristics and traditions of the Northwest District Plan.

The character statement for the CM2 zone is in Zoning Code Section 33.130.030.C:

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

The proposed adjustment request affects only the landscaping required along the south lot line which is directly adjacent to the existing neighboring zero-lot line building. The adjustment ultimately allows for a vibrant and active courtyard area that will have pedestrian access points from each street with new landscaping (per **exhibit 2**) and access to a well contained and out-of-sight area for trash and deliveries at the inner southeast corner of the site, which is the least visible area of the property.

The Design Overlay Zone purpose (zoning code section 33.420.010) is as follows:

"The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;*
- Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and*
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy."*

The proposal maintains the existing building massing and facades while also providing active courtyard and balcony areas, which also provide a buffer between the building and the existing residential neighbor to the south. Trash and delivery access is determined and appropriately provided at the southeast end of the site where it will remain out of public view and away from the street facing façade, as is planned for the electrical utilities

The site is within the Northwest Plan District and is situated along a *Streetcar Main Street*. The character statement of the Northwest Plan District states its purpose as *"implement[ing] the Northwest District Plan"* and *"providing for an urban level of mixed-use development including commercial, office, housing, and employment. Objectives of the plan district include strengthening the area's role as a commercial and residential center."* These objectives that pertain to the commercial nature of the project and adjustments requested are more clearly defined as:

- *Promoting housing and mixed-use development*
- *Enhance the pedestrian experience*
- *Encourage a mixed-use environment, with transit supportive levels of development and a concentration of commercial uses, along main streets and the streetcar alignment*

The development standards of the Northwest Plan District state that:

"These development standards foster a transit-supportive, mixed-use urban character with a high-quality pedestrian environment, and an emphasis on good building design."

In addition, the Northwest District Plan notes the following for the Streetcar Main Street Desired Characteristics and Traditions:

"The Streetcar Era structures that define the character of the main streets, portions of which are located within the Alphabet Historic District, should be preserved or adaptively reused. New development should incorporate architectural features that characterize the district's main streets, such as large storefront windows, awnings and upper-story residences, and should continue the historic pattern of a continuous frontage of buildings and active uses located close to sidewalks. Large retail developments should be integrated into the main streets' fine grain urban pattern and mix of uses through strategies such as including spaces suitable for small tenants along street frontages or by including upper-floor residences. Where appropriate, development should include outdoor space for dining and other activities that contribute to a vibrant urban environment. Disruptions to the continuity of the main street pedestrian environment by curb cuts, driveways, garage fronts and surface parking areas should be avoided."

The open courtyard at the south side of the property provides active outdoor space for dining and a direct connection to the NW 28th Avenue right-of-way. This south courtyard will ultimately provide a strong connection to the NW 28th Avenue right-of-way and be fully accessible by pedestrians. Furthermore, the existing building facades, along NW Thurman Street and NW 28th Avenue shall remain and their storefronts will be increased in size. The approval of the requested adjustments permit us to locate trash and utility services away from the pedestrian environment, creating a stronger and more active neighborhood experience with the outdoor space, thereby allowing the project to better meet the desired character of the Northwest Plan District and City Design Guidelines.

Additionally, as mentioned above, the adjacent building (**exhibit 4**) is constructed at a zero-lot line, has a solid brick wall, and averages approximately 23'-0" in height. The floor plan (**exhibit 6**) shows a parking garage and egress hallway with no openings immediately adjacent to the shared property line. We acknowledge that the EA notes indicate that the site could be re-developed in the future, but any re-development would have to comply with the current setbacks and open space requirements where the current grandfathered development violates that criterion.

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

The cumulative effect of the zoning adjustments results in a project which is consistent with the overall purpose of the CM2 zone. The adjustments allow a final development which is pedestrian-oriented, provides a strong relationship between the building and sidewalk along NW 28th avenue, and complements the scale of surrounding residentially zoned area.

D. City-designated resources and historic resources are preserved, and

Not applicable.

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

The proposed adjustments are mitigated to the extent practical through the use of new landscaping which shall provide continuous evergreens shrubs and a tree, as described above under section A, and maintaining actual setbacks between the final proposed building areas and the south property line and existing adjacent building.

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

Not applicable

Erik Opsahl
erik@savierdevelopment.com
503-704-4049

January 12, 2023

VIA EMAIL:

David Besley
City Planner
City of Portland Development Services
Title 33, Land Use Services Division
1900 SW 4th Avenue, Suite 5000
Portland, OR 97201

RE: Adjustments Request for NW Thurman & 28th Existing Commercial Building
Alteration - LU 22-159396 AD

Dear David,

This letter will service as our additional project narrative to the Land Use Staff reviewing our Type II Application to approve the requested adjustments and as a response to the letters and emails opposing the adjustments from some of the neighbors that reside near and around the property. Please forward this letter to all other staff members that will be deciding on this matter.

As a personal note, I myself am also a neighbor, living only 250' away from the property. I have reached out and met with many of the neighbors over the last few months to discuss the project and listen to any concerns; including hosting an in-person meeting with the TrolleyCar Lofts Condominium owners that reside at the RM1 zoned property to the immediate south, and presenting the project over Zoom to the Northwest District Association (NWDA) Planning Committee where even more neighbors were able to participate in the discussion. Being a resident of the neighborhood myself for over 15 years I appreciate some of the concerns expressed and are also pleased the NWDA has extended their support to the project and acknowledge the two conditions to which that support comes. Conversations are ongoing and we will continue to remain willing to work with our neighbors over the course of the project and into the future after it is complete.

We are committed to building a true neighborhood amenity that aligns with the objectives of the Northwest District Plan and maintains the district's historic character, enhances the pedestrian environment, and reactivates the historically commercial use typically found clustered along the main street at the intersections of NW Thurman.

1. City Council Adopted CM2 & CM1 Zoning, or Mixed-Use Neighborhood, for the Entire Half-Block Fronting NW Thurman St and Adjacent Blocks

The subject property sits on a 10,000 sf site located on the SE corner of the intersection at NW Thurman St and NW 28th Ave, giving the property frontages of 100' on both streets (the **"Property"**). The site is zoned CM2 and is bound on 3 sides by CM2 (Commercial Mixed-Use 2) zoned properties (north, east, and west) with the property to the south in a RM1 (Residential Multi-Dwelling 1) zone. The entire block running along NW Thurman St is zoned CM2 or CM1 and NW Thurman St is classified as a Civic Corridor or main street. The property also has a Design Overlay (d) zone, resides in an Inner Pattern area, and is located in the Northwest Plan District. The existing structure on the site is a approx. 7,200 SF single-story unreinforced masonry building that was built in 1914.

City Council adopted the CM2 zoning, or Mixed-Use Neighborhood, Comprehensive Plan designation in 2018 for the subject property and the broader area including the property to the west directly across NW 28th Ave, and all other properties on the north and south sides of NW Thurman St from NW 28th Ave east down to NW 23rd Ave, and beyond. It's clear that the intention of the newly adopted code is to implement the CM2 (or CM1) entitlements on the subject property and all of the properties to the east and west that front NW Thurman St that are zoned the same.

2. The Project's Design and Scale is Consistent with CM2 Zoned Properties Along Civic Corridors and is 10' Less in Height & 16,575 SF Smaller than What is Allowed As-of-Right

The property is bound by medium-scale commercially (CM2) zoned properties to the north, east, and west, and low-scale multi-dwelling (RM1) zoned properties at the south. Buildings in CM2 zones are noted as pedestrian-oriented and are up to four stories tall, 45' in height [not including bonuses], with those located in RM1 zoned areas characterized by duplexes, rowhouses, courtyard housing and small apartment buildings that are 1-3 stories, 35' in height, with front setbacks that relate to the patterns of residential neighborhoods. The FAR for the CM2 base zone that controls the allowable overall potential building square footage is 2.5:1, with bonuses available that entitle an increase to 4:1 FAR. The Northwest Plan District has an additional minimum density regulation for CM2 zoned properties (33.562.220.B) that requires a minimum FAR of 1.5:1.

Comments in opposition to the project refer to the project's scale or place within the neighborhood, with one neighbor claiming that the "intense development would dramatically change the character [of the neighborhood]", and another neighbor stating the project "detracts from the small scale and quiet character of our block". These comments ignore the actual allowed density and scale of the base zones surrounding the property, and along the Thurman main street, that City Council adopted in 2018 to better meet the City's planned

growth, as well ignore the long-term vision and goals of the Northwest Plan District. With the property being 10,000 SF and with a 4:1 FAR with all bonuses taken, a development of 4-stories (45') and 40,000 SF would be permitted on the site. The project proposed with adjustments is a 2-story (35') building totaling only 15,813 SF, which is slightly over the 1.5:1 FAR minimum. This is 10' shorter and 24,187 SF less than what could be developed on the property.

3. Outdoor Areas Included in Developments on Main Streets within the Northwest Plan District are Both a Desired Characteristic and an Allowed Use Within the Base Zone

The Northwest District Plan (the “**NWDP**”), which is implemented by the Northwest Plan District, describes the urban characteristics of the Streetcar Main Streets, NW Thurman being listed within this grouping, as containing commercial buildings up against sidewalks with *“large storefront windows; awnings, [and] entrances typically at sidewalk level.”* *“Along NW Thurman Street, storefront commercial buildings tend to be clustered at intersections,”*ⁱ as is the subject property. The NWDP further describes the “desired characteristics and traditions” as promoting the preservation or adaptive reuse of the streetcar era structures that define the character of the main street, and states that *“new development should incorporate the architectural features that characterized the district’s main streets, such as large storefront windows,[...], and should continue the historic pattern of a continuous frontage of building and active uses located close to a sidewalk.”*ⁱⁱ Regarding outdoor areas and development, the NWDP states that *“[w]here appropriate, development should include outdoor space for dining and other activities that contribute to a vibrant urban environment.”* The commercial/mixed-use base zone lists in chapter 33.130.245.E, *“outdoor eating areas, entertainment and recreation activities that are commonly performed outside, and outdoor markets and vendor stalls”* as allowed exterior activities.

Many of the comments received had stated concerns regarding the outdoor area at the back of the property that abut the RM1 zone. These remarks ranged from concerns over loud noise, rumors of the potential for large gatherings of people, and some wondering why the outdoor space could not be located along NW Thurman St. It became clear after noticing similar language and specific stated concerns in many of the neighbor comments that a false narrative had been created and spread throughout the neighborhood. This was confirmed when a neighbor shared with me a letter that was sent out to the neighbors that falsely reported on what the project was intending to be; making claims that the project is going to be a “beer hall” or “beer garden” with large outdoor gatherings upwards of “175-200 patrons”, and have loud outdoor music.

While even though these are allowed uses under the commercial/mixed-use base zone, their has never been any discussions regarding opening a “beer hall”, “beer garden”, having loud

ⁱ Northwest District Plan, 2003, pg. C-18

ⁱⁱ Northwest District Plan, 2003, pg. C-18

outdoor music, or having an occupancy in the back outdoor area upwards of 200 people. The building alteration is being built as a core shell for future tenants to lease space and will have outdoor spaces on both the south and north ends. All future tenants will be in accordance with the allowed uses of the CM2 zone and abide by all regulations concerning operating hours in CM2 zones. The property will abide by all City sound and noise codes/ordinances required in CM2 zoned properties as stated in Chapter 18.10.010, Maximum Permissible Sound Levels for Land Use Zones. Trash and recycling will be accordance with all required food and waste rules. The maximum occupancy for any space will not exceed its permitted and allowed use. The occupancy number of 175-200 people that was stated in the original letter written by a neighbor assumed a standing only environment and was calculated using gross square feet and did account for actual conditions where there will be space taken by tables, chairs, planters, egress walkways, etc. We anticipate the actual real world maximum capacity to be between 90-135 occupants for both the north and south outdoor areas, but the actual maximum allowed capacity stated per code will be in line with Oregon Structural Specialty Code and Fire Marshall requirements.

In regard to neighbor concerns about potential noise created by the outdoor areas on the upper level, and the impact to the roof decks of the Trolley car Lofts, it should be noted that the second-level smaller patio that is closest to the residential zone at the southeast corner of the property is only 500 SF with a seating area set back 10' from the property line. The finished surface elevation is approx. 10' beneath the top of parapet of the RM1 neighboring property shown as 'Line A' in the adjacent picture, and the larger second level patio is set back 24' from the residential property line and has a finished surface elevation that is 8' lower than the residential building's top of parapet shown as 'Line A'. In addition, as noted above, the property will abide by all City sound and noise codes/ordinances required in CM2 zoned properties as stated in Chapter 18.10.010, Maximum Permissible Sound Levels for Land Use Zones.



4. The Proposed Setback and Landscaping Adjustment Will Better Enable the Project to Exceed Light, Air, and Potential for Privacy; while also and Improving the Pedestrian Experience

The following property description and analysis focuses on the existing loading zone area at the southern half of the property abutting the RM1 zone which is the focus of the neighbor comments and is the location that the adjustments are being requested. The existing 24' wide x 89'-6" long paved loading zone was officially permitted (permit #395581) as a loading area in 1962, but has existed on the property since originally built in 1914. It has remained an active

loading area over the years for both the tavern and art studio uses and is accessed on the southern-most half of the loading area by a chain link double swing gate. The neighboring RM1 building to the south is constructed at a zero-lot line running the entire length of the shared property line, has a solid brick wall, and averages approximately 23'-0" in height (see **Exhibits 3 & 4**). The floor plan shows a parking garage and egress hallway with no openings immediately adjacent to the shared property line. With the property being a condominium development, the likelihood for redevelopment is unrealistic.

Setbacks abutting residential zones have a minimum setback requirement of 10 feet to be landscaped to the L3 standard and are required to set down the building height to 45' within 25' of the RM1 zone property line. This is to "maintain light, air, and the potential for privacy for adjacent residential zones." Within the landscape setback The L3 landscape standard is meant to "provide the physical and visual separation between uses or development." The intent of the L3 landscape and screening standards is already met by virtue of the neighboring RM1 property to the south being built to a zero lot line at an average height of 23' for the entire length of the common property line. The 6' high visual separation is exceeded.

With this zoning we could build a 45-foot height building 10 feet away from the RM1 property to the south without an adjustment. We could also keep the existing loading area/outdoor space and perform a smaller scale remodel to the existing building as long as we do not exceed a project valuation of \$1 million as per Nonconforming Development – 33.258.070. Comments from neighbors in opposition stated that the adjustments and project "detracts significantly from the livability and appearance of the residential area." As designed, the project's building footprint remains unchanged for over 50% of the south façade, which is set back 24' from the south RM1 property line on the ground floor for 53' of the 100' running west to east, which is over 14' greater than required. The second level of the building is set back 36' from the southern property line, which exceeds the minimum setback requirement by 26'. For the southeastern half of the south facing façade the building expansion is setback 10' from the southern property line at the ground level, minus a 14' section that encroaches 2' into that setback. The second level (rooftop patio) of the southeastern building expansion features a raised perimeter landscape planter running up the south edge of the staircase and along the south edge of the second-level patio. This landscape planter encroaches into the setback 4' over a total length of 48' and are allowed to be counted towards the landscape standard in CM2 zones per PCC 33.130.225.A. With the majority of the south façade building setback standard being exceeded, and the subject property being located to the north of the residential property thereby preserving its southern exposure, the light, air, and potential for privacy is preserved.

In addition to the building setbacks a 6' wide clear pathway runs the entire length of the southern property line for egress/fire life safety access. This pathway widens to 10' at approx. 18' from the sidewalk to maintain the existing loading zone. The purpose of setback regulations in commercial/mixed-use zones, and specifically sites that abut residential zones, is to promote streetscapes that are consistent with the desired character of the zones, encourage "buildings close to sidewalks to reinforce a pedestrian orientation", and "promote commercial/mixed-use

development that will maintain light, air, and the potential for privacy for adjacent residential zones.” When abutting residential zones setbacks work with stepping down building heights to “promote street frontages with landscaping and residential uses to provide a transition and a cohesive street environment with similar street frontage characteristics on both sides of the street, and limit exterior display and storage to minimize impacts to nearby residentially-zoned areas”. When looking at the CM2 property frontage west of the property across NW 28th Ave you find a similar condition where the commercial property abuts a residential zoned property to the south. Referencing this transition condition when looking to create a “cohesive street environment with similar street frontage characteristics on both sides,” you find a loading/parking spot located along the south property line that transitions down to a minimal setback along the south property line. Approving the loading zone adjustments would maintain similar street frontages on both sides of the street.

In addition to the base zone setback and landscape standards, properties with frontages on main streets and within design overlays must take in to account additional design standards to ensure the building at the street level remains visually interesting and encourages active pedestrian engagement while transitioning to lower dense zoning. The neighbor comments that spoke directly to the specific adjustments that are requested claim that “the waiver of the loading zone landscaping requirement appear to only benefit the applicant's desire to expand the footprint of the existing buildings” and state that “the adjustments requested seems to be at odds with that purpose, placing a significant amount of the operations, delivery, waste, dining, foot traffic etc. toward the Southwest corner of the site, thereby imposing the greatest burden on nearby residential neighbors.”

The requested adjustments will transform the existing barren 24’ wide paved loading area into a 14’ wide outdoor seating area with a 10’ wide x 18’ deep loading area remaining at its current location along the southern edge, that reduces down to a 6’ wide pedestrian walkway for access to utilities, deliveries, and building services. Paved pedestrian areas are allowed to be located in building setback areas but not closer to 5’ from abutting lot line. Approving the adjustment will allow for this to remain. Landscaping in the form of 3’-2” raised planters will run along these loading and walkway areas, separating the outdoor seating area from the building service areas, while providing landscaping and canopy against the 23’ height blank brick wall to the south. The outdoor seating area can be accessed from both NW Thurman St. through the building as well as from NW 28th Ave., thereby connecting the two pedestrian pathways.

The adjustments requested will reduce the burden on residential neighbors by allowing the waste area and electrical utility equipment to be located as far back as possible from the sidewalk frontage along NW 28th Ave, while also retaining an onsite loading area for deliveries, keeping the delivery vehicle out of the street in the way of traffic. The redefining of the existing loading area will also reduce the existing curb cut from 26’-2” down to 10’-0”, thereby creating an additional on street parking space. It will also allow for the PGE electrical equipment to be hidden from view and placed further off the sidewalk and into the site while still meeting PGE’s requirement to have the equipment to be located within 25’ of a local service street for

servicing access. They have approved this design and are acknowledging the on-site loading space as an extension of the service street, accessed from the 6' wide walkway at the end of the loading zone. Without the loading space PGE would require the equipment to be located at the front of the property. The trash area will be located in the far back SE corner of the property and accessed from the 6' wide walkway running along the south property line. The trash area location with adjustments approved allows for the back outdoor courtyard to be accessed directly off of NW 28th Ave by patrons, as re-locating the trash area up front along the NW 28th Street frontage would take up the entire area between the required landscaped buffer zone to the south and the existing building. This design strategy of placing utilities and utility rooms away from street facing facades and locating them away from the sidewalk frontage is advised in the City Design Guidelines as a way of creating positive relationships with the surrounding area, thereby reducing negative conflicts with the neighboring residential uses. It is also a desired characteristic of the Northwest District Plan along Main Streets, as they state developments "should include outdoor space for dining and other activities that contribute to a vibrant urban environment. Disruptions to the continuity of the main street pedestrian environment by curb cuts, driveways, garage fronts and surface parking areas should be avoided." It also "continues the historic pattern of a continuous frontage of buildings and active uses located close to sidewalks."

5. Other Issues Raised

Hours of Operation of Outdoor Patio Areas

The outdoor use on the southern facing patios will be closed to customer use after 10:00pm.

Loading Zone Hours

The loading zone space will be used for deliveries during normal business hours.

of Tenant Spaces inside the Building

At this time there are no tenants identified for the space. We expect to accommodate between 6 – 10 tenants, which could range from a food vendor to artist gallery space.

Outdoor Music

We have no plans to have any amplified music at this time, but if things were to change any music would be in accordance with Chapter 18.10.010, Maximum Permissible Sound Levels for Land Use Zones, and any anticipated noises above these levels would be done through a noise variance permit.

Building Ventilation and Smells

The project will meet all current State and local requirements and standards governing ventilation. The trash areas is anticipated to be serviced every day or every other day depending on the amount of use at that given time.

Seating Tables in Right-of-Way

While there have been picnic tables historically located in the right-of-way on both Thurman St and NW 28th Ave, there are no current plans to have tables and chairs in the right-of-way. If tenants choose to place tables and chairs in the right-of-way in the future it will be done in accordance with PBOT requirements.

In conclusion, compared to how the property has functioned historically since originally built in 1914, and more recently since the loading zone was officially permitted in 1962, approving the adjustments will only serve to enhance the property and surrounding neighborhood.

Regards,

Erik Opsahl
Owner's Agent

File No.	LU 22 - 159396 AD
1/4 Section	2826
Scale	1 inch =200 feet
State ID	1N1E29DC 8600
Exhibit	B
	Jul 05, 2022

* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Architectural site plan for a building on NW 28th Avenue. The plan shows a large rectangular building footprint with a central staircase and a smaller structure to the right. The lot is 100'-0" wide and 100'-0" deep. The building is set back 10'-0" from the front property line. The plan includes various annotations such as "LOT WIDTH = 100'-0\"", "LOT DEPTH = 100'-0\"", "10'-0" SETBACK", and "ZONING ADJUSTMENT BUILDING SETBACK". The plan also shows a sloping area with a 1:12 max pitch and a 4'-2" wide area. The plan is numbered 1 through 15.

1. FLOOD MARKET (ENCLOSED BUILDING AREA = 7,780 SQ. FT.)
2. EXISTING SIDEWALK TO BE REBUILT
3. NEW LANDSCAPE PLANTER, $\frac{3}{4}$ " METAL PLATE ($\frac{3}{4}$ " = PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO INCLUDE:
 - EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 6' HIGH
 - (1) SMALL DECIDUOUS OR EVERGREEN TREE
 - GROUND COVER TO FULLY COVER PLANTER AREA(All plants shall comply with the requirements the *Suggested plant lists* for required *Landscaping manual*)
4. LINE OF SECOND FLOOR BALCONY AND PLANTER ABOVE
5. LOWER COURTYARD (EXTERIOR SPACE)
6. UPPER COURTYARD (EXTERIOR SPACE)
7. LOADING AREA
8. COVERED TRASH AREA TO MEET BES SOURCE CONTROL REQUIREMENTS (INCLUDING FLOOR DRAIN)
9. STAIRS AND SEATING TO SECOND FLOOR BALCONY AREA ABOVE
10. CONCRETE SLAB AT GRADE
11. CURB CUT AT 28TH AVENUE ROW TO BE REDUCED FROM 26'-2" TO 10'-0" AT LOADING ZONE
12. EXISTING TROLLEY CAR LOFTS BUILDING, ADJACENT TO SOUTH SIDE OF SITE, SEE EXHIBIT 4
13. EXISTING ADJACENT PROPERTY AT EAST SIDE OF SITE
14. AREA OF EXISTING CURB CUT TO BE REMOVED AND INFILLED WITH SIDEWALK
15. NEW GATE AND FENCE TO REPLACE EXISTING AND SHALL BE IN COMPLIANCE WITH 33.130.270 AS WELL AS ALL OSSC ACCESSIBILITY AND EGRESS REQUIREMENTS

ZONING ADJUSTMENT 1:
BUILDING SETBACK REDUCED TO 6'-0"
AT SECOND FLOOR BALCONY & STAIR

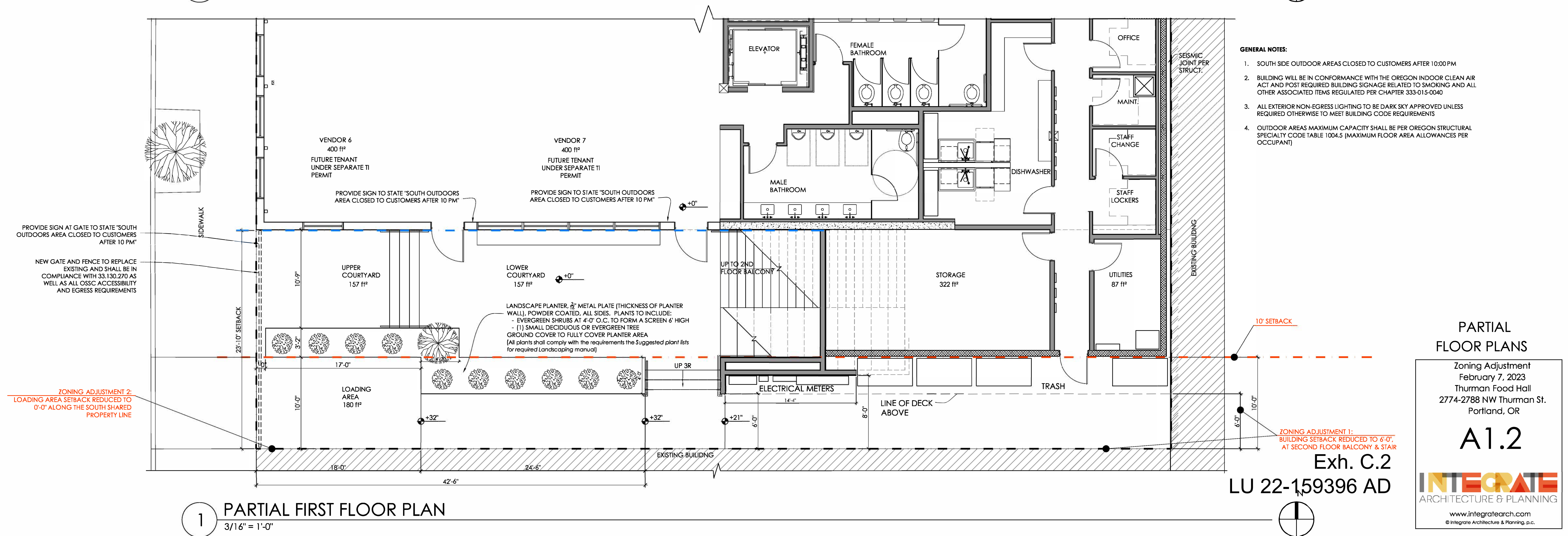
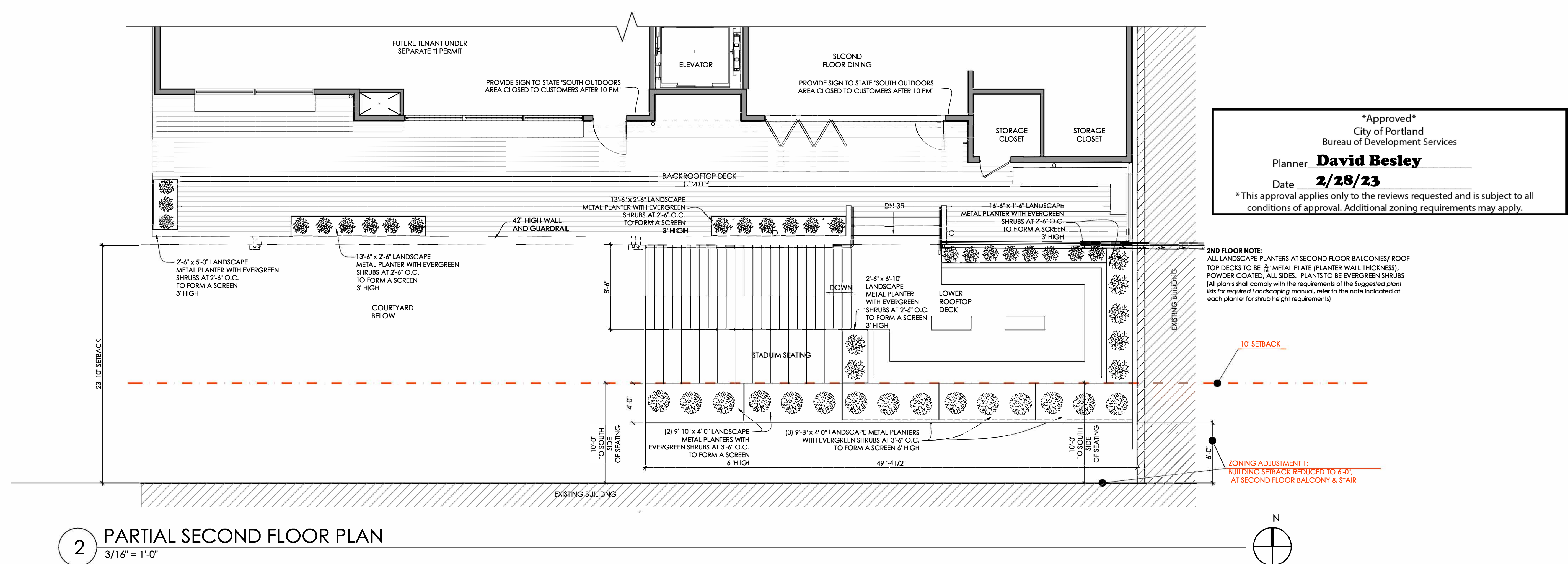
SITE PLAN

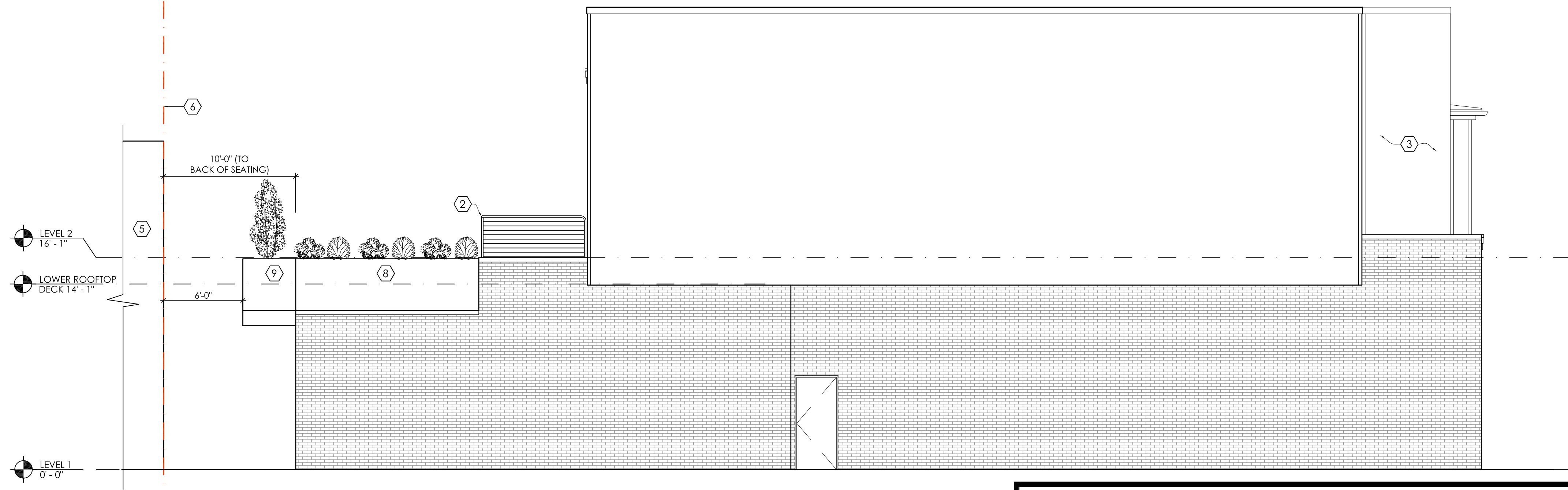
Zoning Adjustment
February 7, 2023
Thurman Food Hall
2774-2788 NW Thurman St.
Portland, OR

A1.1

INTEGRATE
ARCHITECTURE & PLANNING

www.integratearch.com
© Integrate Architecture & Planning, p.c.

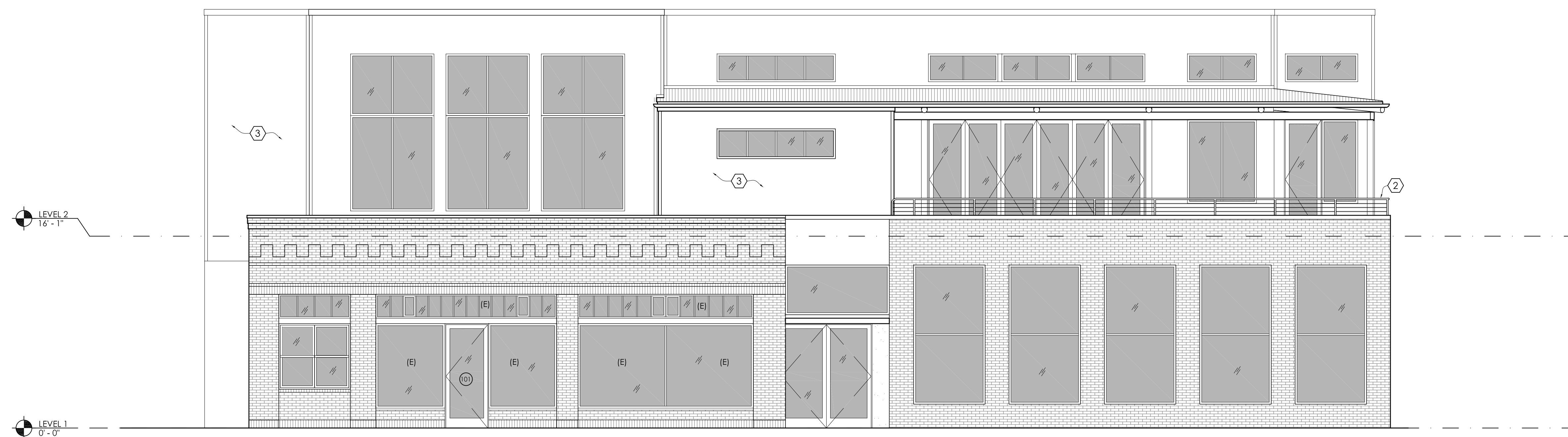




1 EAST ELEVATION
3/16" = 1'-0"

Approved
City of Portland
Bureau of Development Services
Planner **David Besley**
Date **2/28/23**
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

- KEY NOTES**
- 1 EXISTING MASONRY WALL
 - 2 BALCONY GUARDRAIL
 - 3 NEW SECOND FLOOR WALLS BEYOND
 - 4 NEW STAIRS AND SEATING TO SECOND FLOOR BALCONY AREA ABOVE
 - 5 EXISTING TROLLEY CAR LOFTS BUILDING, ADJACENT TO SOUTH SIDE OF SITE. SEE EXHIBIT 4
 - 6 SOUTH PROPERTY LINE
 - 7 NEW LANDSCAPE PLANTER: $\frac{3}{16}$ " METAL PLATE ($\frac{3}{16}$ " = PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO INCLUDE:
 - EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 6' HIGH
 - (1) SMALL DECIDUOUS OR EVERGREEN TREE
 - GROUND COVER TO FULLY COVER PLANTER AREA
 (All plants shall comply with the requirements the suggested plant lists for required Landscaping manual)
 - 8 SECOND FLOOR LANDSCAPE PLANTER: LANDSCAPE PLANTER AT SECOND FLOOR BALCONY/ ROOF TOP DECK TO BE $\frac{3}{16}$ " METAL PLATE (PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO BE EVERGREEN SHRUBS AT 2'-6" O.C. TO FORM A SCREEN 3' HIGH
 - 9 SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER ROOF DECK: (3) 9'-8" x 4'-0" PLANTERS TO BE $\frac{3}{16}$ " METAL PLATE (PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO BE EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH
 - 10 PLANTER AT SOUTH SIDE OF STADIUM SEATING: (2) 9'-10" x 4'-0" PLANTERS TO BE $\frac{3}{16}$ " METAL PLATE (PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO BE EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH



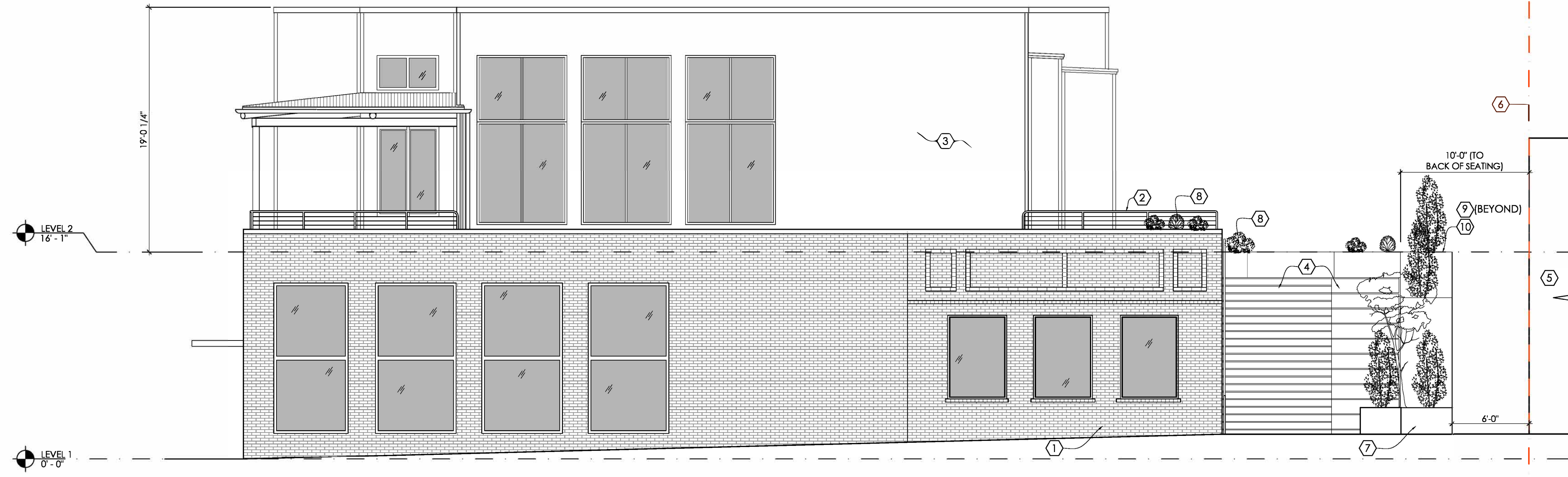
2 NORTH ELEVATION
3/16" = 1'-0"

EXTERIOR ELEVATIONS

Zoning Adjustment
February 7, 2023
Thurman Food Hall
2774-2788 NW Thurman St.
Portland, OR

A3.1

Exh. C.3
LU 22-159396 AD



1 WEST ELEVATION
3/16" = 1'-0"

Approved
City of Portland
Bureau of Development Services

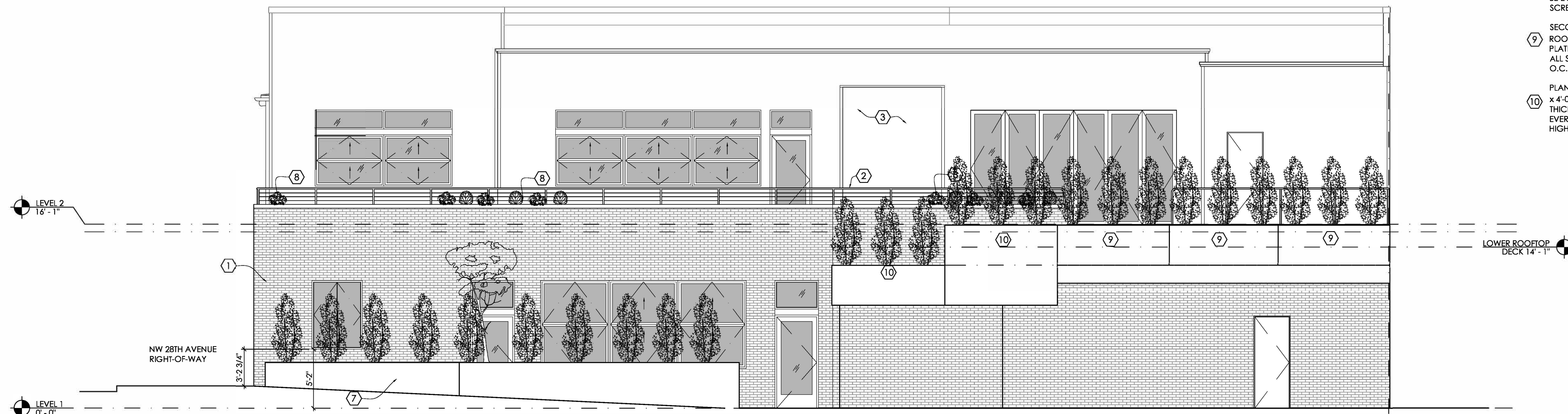
Planner **David Besley**

Date **2/28/23**

* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

KEY NOTES

- 1 EXISTING MASONRY WALL
- 2 BALCONY GUARDRAIL
- 3 NEW SECOND FLOOR WALLS BEYOND
- 4 NEW STAIRS AND SEATING TO SECOND FLOOR BALCONY AREA ABOVE
- 5 EXISTING TROLLEY CAR LOFTS BUILDING, ADJACENT TO SOUTH SIDE OF SITE. SEE EXHIBIT 4
- 6 SOUTH PROPERTY LINE
- 7 NEW LANDSCAPE PLANTER, $\frac{3}{16}$ " METAL PLATE ($\frac{3}{16}$ " = PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO INCLUDE:
- EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 6' HIGH
- (1) SMALL DECIDUOUS OR EVERGREEN TREE
- GROUND COVER TO FULLY COVER PLANTER AREA
(All plants shall comply with the requirements the Suggested plant lists for required Landscaping manual)
- 8 SECOND FLOOR LANDSCAPE PLANTER: LANDSCAPE PLANTER AT SECOND FLOOR BALCONY/ ROOF TOP DECK TO BE $\frac{3}{16}$ " METAL PLATE (PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO BE EVERGREEN SHRUBS AT 2'-6" O.C. TO FORM A SCREEN 3' HIGH
- 9 SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER ROOF DECK: (3) 9'-8" x 4'-0" PLANTERS TO BE $\frac{3}{16}$ " METAL PLATE (PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO BE EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH
- 10 PLANTER AT SOUTH SIDE OF STADIUM SEATING: (2) 9'-10" x 4'-0" PLANTERS TO BE $\frac{3}{16}$ " METAL PLATE (PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO BE EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH



2 SOUTH ELEVATION
3/16" = 1'-0"

EXTERIOR ELEVATIONS

Zoning Adjustment
February 7, 2023
Thurman Food Hall
2774-2788 NW Thurman St.
Portland, OR

A3.2

Exh. C.3
LU 22-159396 AD

	A	B	C	D	E	F
1	ENDORSEMENT	INFO1	INFO2	NAME	ADDRESS/IO ADDRESS	CITYSTATEZIP/ADDRESSEE
2	RETURN SERVICE REQUESTED		1N1E29DC 4700	THURMAN II LLC	1235 N DUTTON AVE #E	SANTA ROSA CA 95401
3	RETURN SERVICE REQUESTED		1N1E29DC 5400	IRON MIKE LLC	2284 NW THURMAN ST	PORTLAND OR 97210-2519
4	RETURN SERVICE REQUESTED		1N1E29DC 5500	NW 28TH & THURMAN LLC	4027 N COLONIAL AVE	PORTLAND OR 97227
5	RETURN SERVICE REQUESTED		1N1E29DC 5600	HLAVACKA MELANIE & HLAVACKA PETER	1810 NW 28TH AVE	PORTLAND OR 97210
6	RETURN SERVICE REQUESTED		1N1E29DC 5700	RYDER CHRISTOPHER & WALKER AMANDA	1814 NW 28TH AVE	PORTLAND OR 97210
7	RETURN SERVICE REQUESTED	1N1E29DC 8500	GIULIETTI/SCHOOUTEN AIA	ARCHITECTS PC	2800 NW THURMAN ST	PORTLAND OR 97210
8	RETURN SERVICE REQUESTED		1N1E29DC 8500	DIAMOND AGE LLC	2812 NW THURMAN ST	PORTLAND OR 97210
9	RETURN SERVICE REQUESTED		1N1E29DC 8500	STURGIS SUSAN TR & WAEHRER EDGAR TR	3484 NW RALEIGH ST	PORTLAND OR 97210
10	RETURN SERVICE REQUESTED		1N1E29DC 8700	PORTLANDIA HOLDINGS LLC	2768 NW THURMAN ST	PORTLAND OR 97210-2205
11	RETURN SERVICE REQUESTED		1N1E29DC 8700	THE DRAGONTREE INC	2768 NW THURMAN ST	PORTLAND OR 97210
12	RETURN SERVICE REQUESTED	1N1E29DC 88000	TROLLEYCAR LOFTS CONDOS ASSN	OF UNIT OWNERS	1704 NW 28TH AVE	PORTLAND OR 97210
13	RETURN SERVICE REQUESTED		1N1E29DC 88001	LEVIN ELLIOTT L & TAAFFE LISA D	1704 NW 28TH AVE	PORTLAND OR 97210-2499
14	RETURN SERVICE REQUESTED		1N1E29DC 88002	MCADOO JAMES C & MCADOO MARYLOU G	2761 NW SAVIER ST #2	PORTLAND OR 97210
15	RETURN SERVICE REQUESTED		1N1E29DC 88003	BOYD DOUGLAS C & BOYD SHERYL T	2777 NW SAVIER ST	PORTLAND OR 97210
16	RETURN SERVICE REQUESTED		1N1E29DC 88004	GOLDSTEIN LYNN M TR	2769 NW SAVIER ST	PORTLAND OR 97210
17	RETURN SERVICE REQUESTED		1N1E29DC 88005	UTZ JOHN H & UTZ JO ANN	2761 NW SAVIER ST	PORTLAND OR 97210-2415
18	RETURN SERVICE REQUESTED		1N1E29DC 88006	FORD GLENN J & FORD DEANNA E	2759 NW SAVIER ST	PORTLAND OR 97210
19	RETURN SERVICE REQUESTED		1N1E29DC 8900	BENINATO PETER	PO BOX 10653	PORTLAND OR 97296-0653
20	RETURN SERVICE REQUESTED		1N1E29DC 9000	MARY DEVRIES REV TR	2803 NW SAVIER ST	PORTLAND OR 97210
21	RETURN SERVICE REQUESTED		1N1E29DC 9100	KVERNLAND GAYLE	2817 NW SAVIER ST	PORTLAND OR 97210-2417
22	RETURN SERVICE REQUESTED		1N1E29DD 13700	VLEN VERA E & VLEN EDWARD W	2744 NW THURMAN ST	PORTLAND OR 97210
23	RETURN SERVICE REQUESTED		1N1E29DD 13800	PASSMORE GREGORY & PASSMORE ERICA	2748 NW THURMAN ST	PORTLAND OR 97210
24	RETURN SERVICE REQUESTED		1N1E29DD 13900	VINH PETER T & DIAZ ANA C	2751 NW SAVIER ST	PORTLAND OR 97210-2415
25	RETURN SERVICE REQUESTED		1N1E29DD 14000	SCHILLING ELIZABETH A TR	2743 NW SAVIER ST	PORTLAND OR 97210-2415
26	RETURN SERVICE REQUESTED		1N1E29DD 14100	CARSON CHRISTOPHER & HAUSER REGINA	2735 NW SAVIER ST	PORTLAND OR 97210-2415
27	RETURN SERVICE REQUESTED	1N1E29DD 90000	ASSOCIATION OF UNIT OWNERS	OF THURMAN COURTYARD	2743 NW THURMAN ST	PORTLAND OR 97210
28	RETURN SERVICE REQUESTED		1N1E29DD 90001	NAKAHAMA YVES MAKOTO	P O BOX 460	YACHTS OR 97498
29	RETURN SERVICE REQUESTED		1N1E29DD 90002	THOMPSON JAMES E III	2743 NW THURMAN ST #7	PORTLAND OR 97210-2252
30	RETURN SERVICE REQUESTED		1N1E29DD 90003	WILSON JOLENE & ZIMMERMAN EDWARD D	2743 NW THURMAN ST #8	PORTLAND OR 97210-2252
31	RETURN SERVICE REQUESTED		1N1E29DD 90004	WEBER CHRISTINE	2743 NW THURMAN ST #2	PORTLAND OR 97210
32	RETURN SERVICE REQUESTED		1N1E29DD 90005	MEYER-PRICE WANDA & SAMUEL MARK	PO BOX 676	CANNON BEACH OR 97110
33	RETURN SERVICE REQUESTED		1N1E29DD 90006	JON & FLIP ANDERSON TR	29632 HARVEST DR SW	ALBANY OR 97321
34	RETURN SERVICE REQUESTED		1N1E29DD 90007	MC LAUGHLIN ANNE	2743 NW THURMAN ST #5	PORTLAND OR 97210-2252
35	RETURN SERVICE REQUESTED		1N1E29DD 90008	SIEG BRADY	2743 NW THURMAN ST #1	PORTLAND OR 97210
36				CURRENT RESIDENT	2763 NW THURMAN ST #12	PORTLAND OR 97210
37				CURRENT RESIDENT	2763 NW THURMAN ST #17	PORTLAND OR 97210
38				CURRENT RESIDENT	2763 NW THURMAN ST #3	PORTLAND OR 97210
39				CURRENT RESIDENT	2763 NW THURMAN ST #5	PORTLAND OR 97210
40				CURRENT RESIDENT	2763 NW THURMAN ST #9	PORTLAND OR 97210
41				CURRENT RESIDENT	2764 NW THURMAN ST	PORTLAND OR 97210
42				CURRENT RESIDENT	2767 NW SAVIER ST	PORTLAND OR 97210
43				CURRENT RESIDENT	2809 NW THURMAN ST	PORTLAND OR 97210
44				CURRENT RESIDENT	1715 NW 28TH AVE	PORTLAND OR 97210
45				CURRENT RESIDENT	1849 NW 28TH AVE	PORTLAND OR 97210
46				CURRENT RESIDENT	2743 NW THURMAN ST #4	PORTLAND OR 97210
47				CURRENT RESIDENT	2743 NW THURMAN ST #6	PORTLAND OR 97210
48				CURRENT RESIDENT	2763 NW THURMAN ST #4	PORTLAND OR 97210
49				CURRENT RESIDENT	2771 NW THURMAN ST	PORTLAND OR 97210
50				CURRENT RESIDENT	2813 NW THURMAN ST	PORTLAND OR 97210
51				CURRENT RESIDENT	1725 NW 28TH AVE	PORTLAND OR 97210
52				CURRENT RESIDENT	1853 NW 28TH AVE	PORTLAND OR 97210
53				CURRENT RESIDENT	2763 NW THURMAN ST #11	PORTLAND OR 97210
54				CURRENT RESIDENT	2763 NW THURMAN ST #15	PORTLAND OR 97210
55				CURRENT RESIDENT	2763 NW THURMAN ST #19	PORTLAND OR 97210
56				CURRENT RESIDENT	2763 NW THURMAN ST #2	PORTLAND OR 97210
57				CURRENT RESIDENT	2763 NW THURMAN ST #6	PORTLAND OR 97210
58				CURRENT RESIDENT	2763 NW THURMAN ST #7	PORTLAND OR 97210
59				CURRENT RESIDENT	2763 NW THURMAN ST #8	PORTLAND OR 97210
60				CURRENT RESIDENT	2781 NW SAVIER ST	PORTLAND OR 97210
61				CURRENT RESIDENT	2805 NW THURMAN ST	PORTLAND OR 97210
62				CURRENT RESIDENT	1841 NW 28TH AVE	PORTLAND OR 97210
63				CURRENT RESIDENT	1845 NW 28TH AVE	PORTLAND OR 97210
64				CURRENT RESIDENT	2743 NW THURMAN ST #3	PORTLAND OR 97210
65				CURRENT RESIDENT	2763 NW THURMAN ST #1	PORTLAND OR 97210
66				CURRENT RESIDENT	2763 NW THURMAN ST #10	PORTLAND OR 97210
67				CURRENT RESIDENT	2763 NW THURMAN ST #14	PORTLAND OR 97210
68				CURRENT RESIDENT	2763 NW THURMAN ST #16	PORTLAND OR 97210
69				CURRENT RESIDENT	2763 NW THURMAN ST #18	PORTLAND OR 97210
70				CURRENT RESIDENT	2817 NW THURMAN ST	PORTLAND OR 97210
71				CURRENT RESIDENT	2818 NW THURMAN ST	PORTLAND OR 97210
72	RETURN SERVICE REQUESTED	OWNER	1N1E29DC 8600	NASCENT COLLECTIVE LLC	PO BOX 29107	PORTLAND OR 97296
73	RETURN SERVICE REQUESTED	OWNERS AGENT	SAVIER DEVELOPMENT	OPSAHL ERIK	2724 NW SAVIER ST	PORTLAND OR 97210

	A	B	C	D	E	F
74	RETURN SERVICE REQUESTED	APPLICANT	INTEGRATE ARCHITECTURE & PLANNING	SYDNOR PHILIP	1919 N KILPATRICK	PORTLAND OR 97217
75	RETURN SERVICE REQUESTED		NEIGHBORS WEST-NORTHWEST	GARRETT DARLENE URBAN	2257 NW RALEIGH ST	PORTLAND OR 97210
76	RETURN SERVICE REQUESTED		LAND USE CONTACT	NOB HILL BA	25 NW 23RD AVE #6-FMB 217	PORTLAND OR 97210
77	RETURN SERVICE REQUESTED		NORTHWEST DISTRICT ASSOCIATION	THEISEN GREG	2257 NW RALEIGH ST	PORTLAND OR 97210
78	RETURN SERVICE REQUESTED		PORTLAND METRO REGIONAL SOLUTIONS	C/O DLCD REGIONAL REPRESENTATIVE	1600 SW FOURTH AVE #109	PORTLAND OR 97201
79	RETURN SERVICE REQUESTED		LAND USE CONTACT	FORT OF PORTLAND PLANNING	PO BOX 3529	PORTLAND OR 97208
80	RETURN SERVICE REQUESTED		LAND USE CONTACT	TRANSIT DEVELOPMENT	1800 SW FIRST AVE #300	PORTLAND OR 97201
81				PORTLAND PARK TRAIL	TATE WHITE	B106/R1302
82				LAND USE CONTACT	PROSPER PORTLAND	129/FROSPER
83					DAWN KRANTZ	B299/R5000



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

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portland.gov/bds

Date: November 17, 2022
To: Interested Person
From: David Besley, Land Use Services
503-865-6715/David.Besley@portlandoregon.gov

**REVISED NOTICE OF A TYPE II PROPOSAL IN YOUR
NEIGHBORHOOD**

Development has been proposed in your neighborhood. The proposed development requires a land use review. The proposal, review process, and information on how to respond to this notice are described below. A copy of the site plan and zoning map is attached. I am the staff person handling the case. Please call me if you have questions regarding this proposal. Please contact the applicant if you have questions regarding any future development on the site.

Because we must publish our decision within 28 days, **we need to receive your written comments by 5 p.m. on December 8, 2022. Your comments must be e-mailed to the assigned planner listed above**; please include the Case File Number, LU 22-159396 AD, in your e-mail. If you do not have access to e-mail, please telephone the planner listed above about submitting comments. Please note that all correspondence received will become part of the public record.

Note: *This Adjustment notice was originally mailed November 7, 2022 and is being re-noticed to include elevation drawings. No changes from the original submittal have been proposed.*

CASE FILE NUMBER: LU 22-159396 AD

Applicant: Philip Sydnor
Integrate Architecture & Planning
1919 N Kilpatrick
Portland, OR 97217
Phone: 503.528.9899, Email: phil@integratearch.com

Owner's Agent: Erik Opsahl
Savier Development
2724 NW Savier St
Portland, OR 97210

Owner: Nascent Collective LLC
PO Box 29107
Portland, OR 97296

Site Address: 2788 NW THURMAN ST

Legal Description: TL 8600 0.23 ACRES, SECTION 29 1N 1E
Tax Account No.: R941290220
State ID No.: 1N1E29DC 08600
Quarter Section: 2826

Neighborhood: Northwest District, contact Greg Theisen at planningchair@northwestdistrictassociation.org

Business District: None

District Coalition: Neighbors West/Northwest, contact Darlene Urban Garrett at darlene@nwnw.org

Plan District: Northwest

Zoning: CM2d (Commercial/Mixed Use 2 zone with Design “d” overlay zone)

Case Type: AD (Adjustment Review – 2 Concurrent Adjustments)

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee

Proposal:

The applicant is proposing to re-purpose an existing tavern into a commercial/restaurant space with several small businesses, expand the building at the southeast corner of the existing building, add a partial second floor with a patio for outdoor seating, add an exterior staircase along the southern edge of the building, and add a ground level patio for outdoor seating along the southern edge of the existing building. For lot lines in this zone (CM2) zone abutting residentially zoned sites, the Portland Zoning Code requires a minimum building setback of 10 feet and a landscape buffer to the L3 standard (Section 33.130.215.B, Table 130-2). The expansion at the southeast corner of the existing building is proposed to be located as close as 6 feet from the south lot line (at the second-floor patio and first floor staircase/trash enclosure area). An existing loading area along the southwestern corner of the site is proposed to remain and a 6-foot wide pedestrian access connection is proposed along the southern edge of the site to serve as access for the building and trash enclosure area; therefore, no landscaping is proposed in this area.¹ The adjacent site to the south is residentially zoned (RM1 – Residential Multi-Dwelling 1); therefore, an Adjustment is requested to reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer.

While no loading spaces are required, the applicant is proposing to maintain an existing “Standard B” loading space and curb cut.² The Portland Zoning Code requires that loading spaces abutting a Residential zone be set back a minimum of 5 feet and include perimeter landscaping to the L4 standard (per Section 33.266.310, Table 266-8). Because the existing loading space is located along the southern edge of the site and the adjacent site to the south is residentially zoned (RM1 – Residential Multi-Dwelling 1), an Adjustment is requested to reduce the street and residential-abutting setbacks and perimeter landscaping to 0 feet and to waive the landscape requirement.

Relevant Approval Criteria:

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

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

¹ The applicant is proposing a 3 foot – 2 inch wide by 24.4 foot long landscape planter at the ground level and a 2 foot – 6 inch wide by 48.7 foot long landscape planter area at the southern edge of the second-floor patio. Both of these landscape planters are proposed within the 10-foot landscape buffer area.

² Loading spaces are considered exterior development and therefore subject to nonconforming landscaping upgrades (per Section 33.258.070.D.2.b.1).

- 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
- D. City-designated scenic resources and historic resources are preserved (*not applicable*); and
- E. Any impacts resulting from the adjustment are mitigated to the extent practical; and
- F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable (*not applicable*).

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 July 1, 2022 and determined to be complete on October 31, 2022.

DECISION MAKING PROCESS

The Bureau of Development Services will make a decision on this proposal. After we consider your comments we will do one of the following:

- Approve the proposal;
- Approve the proposal with conditions; or
- Deny the proposal.

The neighborhood association listed on the first page of this notice may take a position on this application. They may also schedule an open meeting prior to making their recommendation to the Bureau of Development Services. Please contact the person listed as the neighborhood contact to determine the time and date of this meeting.

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 extended at the request of the applicant.

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

APPEAL PROCESS

If you disagree with the Bureau of Development Services administrative decision, you can appeal the decision to the Adjustment Committee. This review body will hold a public hearing for the appeal. When the decision is mailed, the criteria used to make the decision and information on how to file an appeal will be included. If you do not send any comments, you can still appeal the decision. There is a 14-day deadline to file an appeal beginning on the day the decision is mailed. The reason for the appeal must be specifically defined in order for the review body to respond to the appeal. If an appeal is filed, you will be notified of the time and location of the appeal hearing.

There is a fee charged for appeals. Recognized neighborhood associations may qualify for an appeal fee waiver.

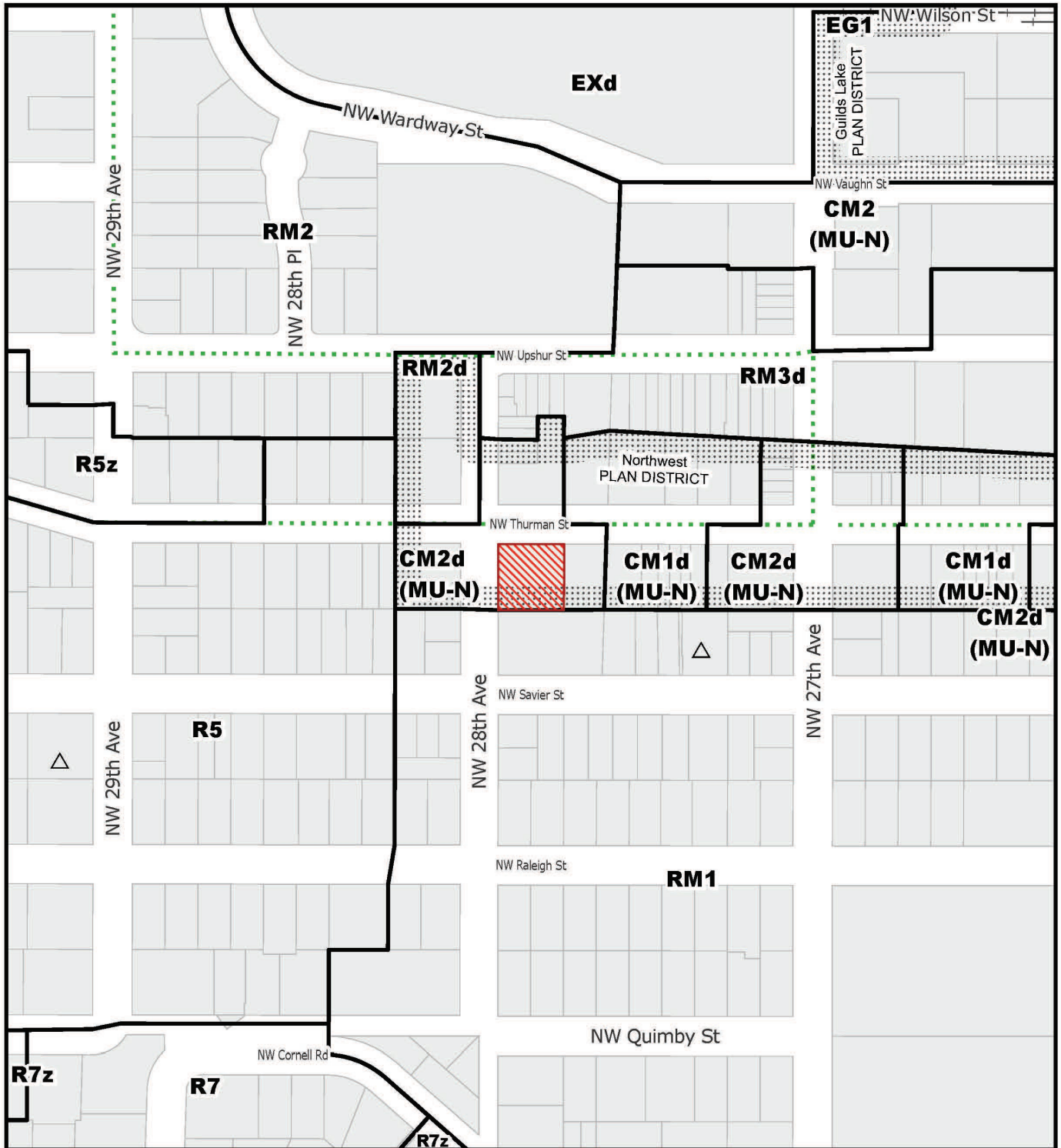
APPEAL OF THE FINAL CITY DECISION

After an appeal hearing, the review body decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283. The phone number for LUBA is 1-503-373-1265. Issues that may provide the basis for an appeal to LUBA must be raised prior to the comment deadline or prior to the conclusion of the hearing if a local appeal is requested. If you do not raise an issue with enough specificity to give the Bureau of Development Services an opportunity to respond to it, that may also preclude an appeal to LUBA on that issue.

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).

Enclosures:

Zoning Map
Site Plan
Elevations



For Zoning Code in effect Post August 1, 2021

ZONING

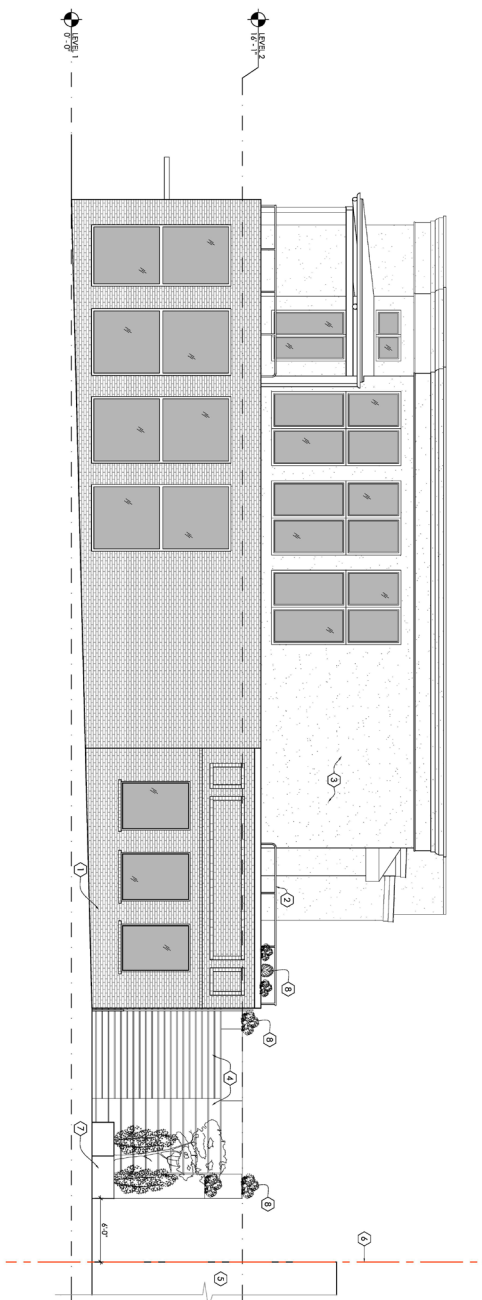
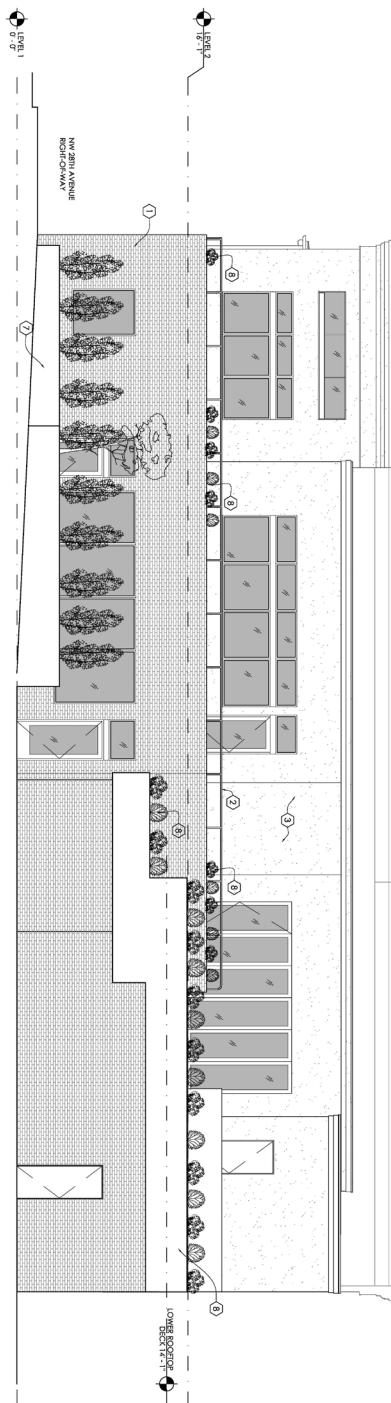
THIS SITE LIES WITHIN THE:
NORTHWEST PLAN DISTRICT

-  Site
-  Historic Landmark
-  Recreational Trails

File No.	<u>LU 22 - 159396 AD</u>
1/4 Section	<u>2826</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1N1E29DC 8600</u>
Exhibit	<u>B Jul 05, 2022</u>





$$3/16'' = 1.0''$$
 $3/16'' = 1/8''$ 

EXTERIOR ELEVATIONS

A3.1

INTEGRATE
ARCHITECTURE & PLANNING

LU 22-159396 AD

KEY NOTES

- [illegible]



PORTLAND BUREAU OF TRANSPORTATION

1900 SW Fourth Ave., Suite 5000 Portland, OR 97201 503-823-5185
Fax 503-823-7576 TTY 503-823-6868 www.portlandoregon.gov/transportation

Jo Ann Hardesty Commissioner Chris Warner Director

**RESPONSE TO THE BUREAU OF DEVELOPMENT SERVICES
LAND USE REVIEW REQUEST**

**Portland Transportation
Development Review
Bureau of Transportation Engineering & Development**

LU: 22-159396-000-00-LU Date: November 22, 2022
To: David Besley, Bureau of Development Services, B299/R5000
From: Michael Pina, B106/800, 503-823-4249
Applicant: Philip Sydnor, INTEGRATE ARCHITECTURE & PLANNING
1919 N KILPATRICK
PORTLAND OR 97217
Location: 2788 NW THURMAN ST
TYPE OF REQUEST: Type 2 procedure AD - Adjustment

DESCRIPTION OF PROJECT

The applicant is proposing to re-purpose an existing tavern into a commercial/restaurant space with several small businesses, expand the building at the southeast corner of the existing building, add a partial second floor with a patio for outdoor seating, add an exterior staircase along the southern edge of the building, and add a ground level patio for outdoor seating along the southern edge of the existing building. For lot lines in this zone (CM2) zone abutting residentially zoned sites, the Portland Zoning Code requires a minimum building setback of 10 feet and a landscape buffer to the L3 standard (Section 33.130.215.B, Table 130-2). The expansion at the southeast corner of the existing building is proposed to be located as close as 6 feet from the south lot line (at the second-floor patio and first floor staircase/trash enclosure area). An existing loading area along the southwestern corner of the site is proposed to remain and a 6-foot wide pedestrian access connection is proposed along the southern edge of the site to serve as access for the building and trash enclosure area; therefore, no landscaping is proposed in this area. The adjacent site to the south is residentially zoned (RM1 Residential Multi-Dwelling 1); therefore, an Adjustment is requested to reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer. While no loading spaces are required, the applicant is proposing to maintain an existing "Standard B" loading space and curb cut. The Portland Zoning Code requires that loading spaces abutting a Residential zone be set back a minimum of 5 feet and include perimeter landscaping to the L4 standard (per Section 33.266.310, Table 266-8). Because the existing loading space is located along the southern edge of the site and the adjacent site to the south is residentially zoned (RM1 Residential Multi-Dwelling 1), an Adjustment is requested to reduce the street and residential-abutting setbacks and perimeter landscaping to 0 feet and to waive the landscape requirement.

RESPONSE

Portland Transportation/Development Review 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.

Adjustment Approval Criteria (33.805.040)

The applicant requests two Adjustments to the zoning code for a setback reduction and landscaping waiver. There are no transportation-related criteria for the proposed adjustment, however the proposal has the potential to affect the public Right-of-Way (ROW) therefore warrants a review from PBOT below.

The proposed expansion and renovation of the existing building triggers both development-related thresholds of 17.88.020, therefore frontage improvements are required to bring the abutting Right-of-Way up to City standards, reviewed through a Public Works Permit, to receive 30% concept approval prior to issuance of the Building Permit.

RECOMMENDATION

PBOT has no objection to the proposed Adjustments

STREET CLASSIFICATION & TITLE 17 REQUIREMENTS

In association with the Building Permit, not as a condition of the Adjustment request

TSP Classifications: At this location, the City's Transportation System Plan (TSP) classifies the abutting street(s) as follows:

Street Name	Traffic	Transit	Bicycle	Pedestrian	Freight	Emergency Response	Street Design
NW Thurman St	Neighborhood Collector	Transit Access Street	City Bikeway	Major City Walkway	Local Service Truck St.	Secondary Response	Neighborhood Collector
SW 28 th Ave	Local Service	Local Service	Local Service	Neighborhood Walkway	Local Service	Minor Response	Local Street

Existing Improvements: At this location, according to the City's GIS data, the site's abutting Rights-of-Way (ROW) are improved as follows:

Street Name	ROW Width*	Roadway Width*/Condition	Pedestrian Corridor Width*/Configuration			
			Curb	Furnishing	Sidewalk	Frontage
NW Thurman St	60-ft	36-ft paved	0.5-ft	4-ft	6-ft	1.5-ft
NW 28 th Ave	60-ft	36-ft paved	0.5-ft	4-ft	6-ft	1.5-ft

NOTE: The applicant is advised the information contained herein is derived from City GIS and other databases typically used by city staff, as well as information from the applicant. It has not been confirmed via a survey. This evaluation is not implied to be more accurate than the sources that the information was obtained from. It is the applicant's responsibility to provide a current survey to document the location of the abutting rights-of-way and to challenge any anticipated dedication amount that is being required.

- 1. Required ROW Improvements:** Title 17.88.020 provides PBOT the authority to require the abutting frontage be brought up to City standards when development results in an Increase in Occupancy / Trip generation to the site and/or is defined as a Significant Alteration, as defined in 17.88.010. The proposal triggers both thresholds noted above, thus requiring dedication and abutting frontage improvements.

PBOT has updated the City's *Pedestrian Design Guide (PDG)*, the Bureau's reference document for pedestrian corridor standards, effective July 1, 2022. With the new PDG, PBOT evaluates the required pedestrian corridor width based upon the 'Design' classification in accordance with the City's Transportation System Plan (TSP). Thus, the following standards are reflective of the updated PDG.

The following improvements are to be reviewed under a Public Works Permit, which is to receive 30% Concept approval prior to Building Permit approval.

- NW Thurman St: For a *Neighborhood Corridor* in the CM2 zone, the City's *PDG* document recommends a 12-ft wide pedestrian corridor comprised of a 0.5-ft curb, 4-ft wide hardscaped furnishing zone, 6-ft wide sidewalk, and a 1.5-ft wide frontage zone. The existing corridor meets City standards. Therefore, no frontage improvements required.
- NW 28th Ave: For a *Local Street* in the CM2 zone, the City's *PDG* document recommends a 11-ft wide pedestrian corridor comprised of a 0.5-ft curb, 4-ft wide hardscaped furnishing zone, 6-ft wide sidewalk, and a 0.5-ft wide frontage zone. The existing corridor exceeds City standards in terms of width but not meet standard configuration. Due to the site being within a commercial zone, the current configuration cannot be retained. **Therefore, reconstruct the abutting frontage to City standards above with excess given to the Furnishing zone (0.5-5-6-0.5).**
- Corner: In accordance with TRN 1.28, *"single curb extensions are required at any unsignalized intersection (outside the Northwest/Central City Plan Districts) when those sites are also located within Pedestrian District or along a City Walkway AND abut any street with a traffic classification greater than a Local Service Street."*

In this instance, NW Thurman Street is classified as a City Walkway and Neighborhood Collector, and the abutting corner. **Therefore, reconstruct a single curb extension into NW Thurman St, reviewed through a Public Works permit.**

2. **Vehicular Access**: Title 17.28.110 provides PBOT the authority to review driveways / curb cuts with regards to location, width, and operation, which are reviewed at time of building permit. Specifically, 17.28.110.D.1.d states that a curb cut must access a legal on-site parking space. With the proposed remodel of the building, the existing curb cut exceeds the width of the on-site parking space. Reducing the existing curb cut add supply to the on-site parking supply and provided additional street tree plantings. **Therefore, reconstruct and reduce the width curb cut to the width of the retained parking space, reviewed under the Public Works permit.**



City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 | 503-823-7300 | www.portland.gov/bds



To: David Besley
From: Sloan Shelton, Life Safety Plans Examiner
Date: December 1, 2022
RE: 2788 NW THURMAN ST, 22-159396-LU

LIFE SAFETY PLAN REVIEW RESPONSE

The following comments are based on the plans and documents provided to the Life Safety Plan reviewer. They are intended to provide the applicant with preliminary Building Code information that could affect the Land Use Review, Public Records request and/or future Building Permit reviews. The comments may not identify all conflicts between the Land Use proposal and the Building Codes. A complete Life Safety plan review will be provided at the time of Building Permit submittal at which time any additional Building Code issues will be noted. The comments are based on the Oregon Structural Specialty Code (OSSC), the International Existing Building Code (IEBC), the Oregon Mechanical Specialty Code (OMSC), or the Oregon Residential Specialty Code (ORSC).

RESPONSE SUMMARY

☐ Life Safety Plan Review does not object to the approval of this proposal. The applicant should be aware that several building code requirements may impact the final design of this building. For information regarding future compliance, see the **GENERAL LIFE SAFETY COMMENTS** below.

Item #	GENERAL LIFE SAFETY COMMENTS
1	Building Permit Required - A separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances. Information about submitting a permit application request is available online at https://www.portland.gov/bds/permit-review-process/apply-or-pay-permits .

+ Land Use Review (6)

+ Site Development (2)

+ Life Safety (2)

+ Fire Bureau (2)

- Environmental Services (3)

BES Dev Srv - LU
Response Sent

BES Source Ctrl - LU
No concerns

BES Watershed Srv - LU
No concerns

+ Transportation (2)

+ Water Bureau

Attempt +Attempt [Checklist](#) [Info](#)

[Options](#)

BES Dev Srv - LU (20155) Response Sent 2788 NW THURMAN ST , PORTLAND, Oregon, 97210, USA

Team <input type="text" value="Team"/>	Assigned User <input type="text" value="Indarta,Ella"/>	Baseline Start Date Nov 07, 2022 13:01:18	Baseline End Date Nov 28, 2022 13:01:18
To Start <input type="text" value="Nov 07, 2022 13:01:18"/>	To End <input type="text" value="Nov 28, 2022 13:01:18"/>	Sign Off User <input type="text" value="Indarta,Ella"/>	Discipline OPDR
Started <input type="text" value="Nov 18, 2022 11:49:09"/>	Ended <input type="text" value="Nov 18, 2022 11:49:15"/>	Created By	
Reference <input type="text" value="Reference"/>	People <input type="text" value="People"/>	Last Modified By Indarta,Ella	
Display Order <input type="text" value="610"/>	Inspection Number <input type="text" value="Inspection Number"/>	Last Modified Nov 18, 2022 11:49:15	

Comments

The proposed project will add greater than 500 square feet of new impervious area and will likely trigger the requirements of the City's Stormwater Management Manual (SWMM). The submitted materials indicate that applicant intends on using a combination of ecoroof and drywells to manage stormwater. It does not appear that approval of the requested adjustment will preclude the construction of adequately sized stormwater management facilities, therefore BES does not object to approval. However, BES will require a detailed stormwater management plan for this project during building permit review. Please refer to the Stormwater Infiltration and Discharge Hierarchy and submittal requirements in the SWMM: www.portlandoregon.gov/bes/swmm.





PORTLAND FIRE & RESCUE



Jo Ann Hardesty, Commissioner
Sara Boone, Fire Chief
AJ Jackson, Fire Marshal
Prevention Division
1300 SE Gideon Street
Portland, OR, 97202
Phone: (503) 823-3770

LAND USE REVIEW RESPONSE

TO: David Besley, City of Portland, Land Use Review
FROM: Dawn Krantz, Portland Fire Bureau 503-823-3718
DATE: November 23, 2022
SUBJECT: LU 22-159396 AD
SITE LOCATION : 2788 NW THURMAN ST

The following conditions of approval and informational comments are based on the land use review information provided to the Fire Bureau. Fire Bureau requirements are generated from the 2021 Portland Fire Code. All current Fire Code requirements apply and are required to be met. If these conditions cannot be met, an appeal providing an alternative method is an option for the applicant. If the applicant chooses to appeal a requirement, the appeal must be listed as a condition in the decision. Fire Code Appeals can be obtained at the Fire Bureau web page, www.portlandonline.com.

CONDITIONS OF APPROVAL AT TIME OF DEVELOPMENT

A separate building permit is required for this proposal. All applicable Fire Code requirements shall apply at the time of permit review and development.

<input type="checkbox"/>	Site Dev Review - LU	No concerns	11/17/2022	12/08/2022
--------------------------	----------------------	-------------	------------	------------

— Life Safety (2)

<input type="checkbox"/>	Life Safety Review - LU	Response Sen...	11/07/2022	11/28/2022
--------------------------	-------------------------	-----------------	------------	------------

<input type="checkbox"/>	Life Safety Review - LU	Response Sen...	11/17/2022	12/08/2022
--------------------------	-------------------------	-----------------	------------	------------

— Fire Bureau (2)

<input type="checkbox"/>	Fire Review - LU	Response Sen...	11/07/2022	11/28/2022
--------------------------	------------------	-----------------	------------	------------

<input type="checkbox"/>	Fire Review - LU	Response Sen...	11/17/2022	12/08/2022
--------------------------	------------------	-----------------	------------	------------

— Environmental Services (3)

<input type="checkbox"/>	BES Dev Srv - LU	Response Sen...	11/07/2022	11/28/2022
--------------------------	------------------	-----------------	------------	------------

<input type="checkbox"/>	BES Source Ctrl - LU	No concerns	11/07/2022	11/28/2022
--------------------------	----------------------	-------------	------------	------------

<input type="checkbox"/>	BES Watershed Srv - LU	No concerns	11/07/2022	11/28/2022
--------------------------	------------------------	-------------	------------	------------

— Transportation (2)

<input type="checkbox"/>	PDOT Review - LU	Response Sen...	11/07/2022	11/28/2022
--------------------------	------------------	-----------------	------------	------------

<input type="checkbox"/>	PDOT Review - LU	Response Sen...	11/17/2022	12/08/2022
--------------------------	------------------	-----------------	------------	------------

— Water Bureau Review (2)

<input type="checkbox"/>	Water Review - LU	No concerns	11/07/2022	11/28/2022
--------------------------	-------------------	-------------	------------	------------

<input type="checkbox"/>	Water Review - LU	No concerns	11/17/2022	12/08/2022
--------------------------	-------------------	-------------	------------	------------

From: lrusch@usa.net
To: [Besley, David](#)
Subject: comment on CASE FILE NUMBER: LU 22-159396 AD
Date: Monday, November 14, 2022 3:14:09 PM



The City's email systems have identified this email as potentially suspicious.
Please click responsibly and be cautious if asked to provide sensitive information.

Hi,

I live at 2757 NW Raleigh Street near the proposed development CASE FILE NUMBER: LU 22-159396 AD.

I love the idea and the layout and think it will be a nice addition to the neighborhood.

Thanks,

Elizabeth Rusch (she/her)
(503) 896-0953 C
www.elizabethrusch.com

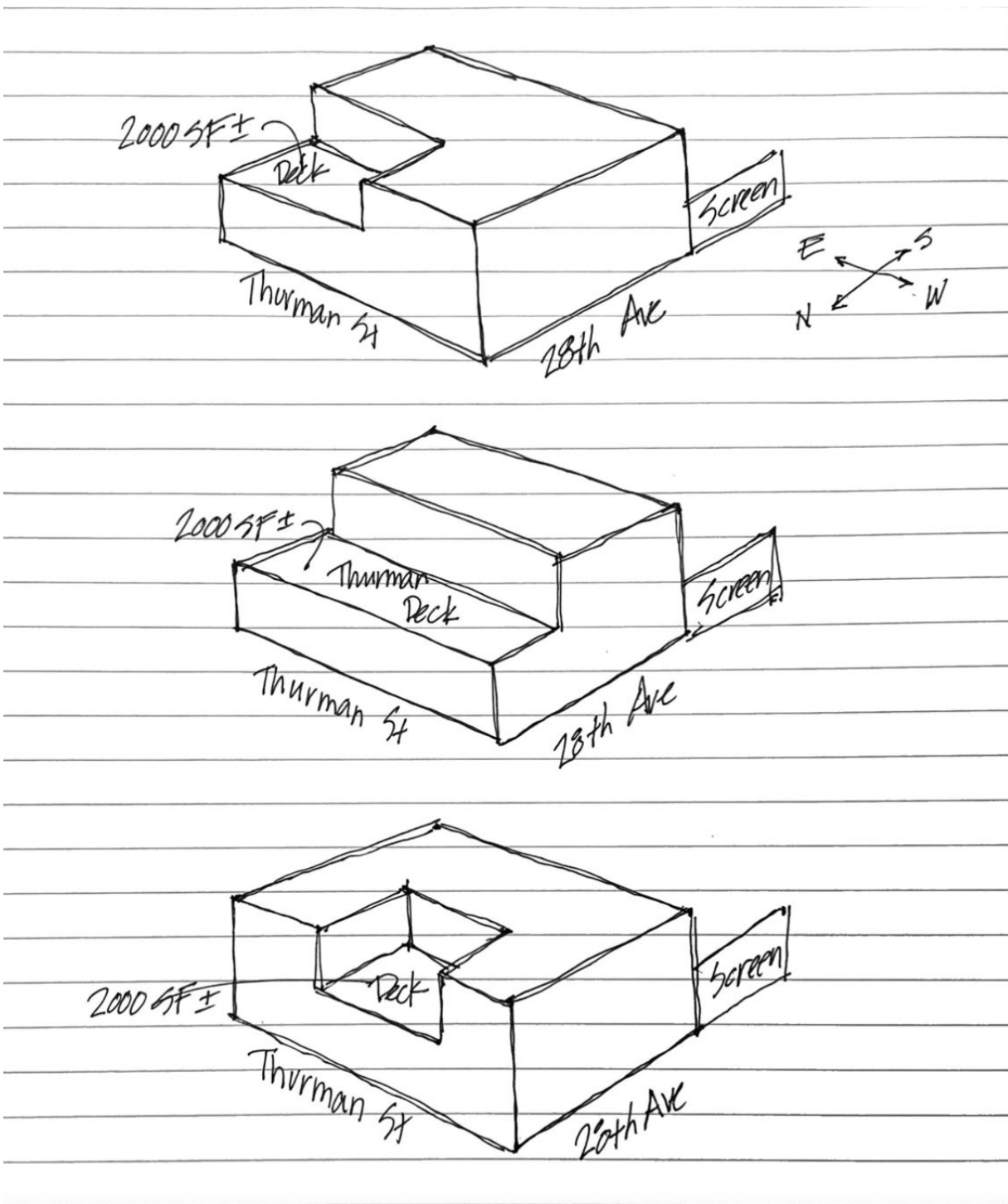
From: [Mary DeVries](#)
To: [Besley, David](#)
Subject: Case #LU-22-259396 AD Response to Notification
Date: Thursday, December 8, 2022 5:01:35 AM
Attachments: [image.png](#)

Dear David,

My comments regarding the proposal for the Food Hall & Beer Garden are submitted herewith.

I am a neighbor on the opposite side of 28th Ave and the proposed project is visible and within earshot of my home. Therefore I will be significantly impacted by the use of the exterior areas if the adjustments are approved. As designed, the outdoor areas would easily accommodate 175 to 200 people as presented; although the owner stated that they “couldn’t imagine that there would be that many people using the outdoor space at any given time”. Looking at the open space next to the Trolley House lofts I see no way the proposal will improve the quality of use of my home, or of the neighborhood. Rather it would negatively impact the surrounding residents with respect to noise, cooking smells, smoking, garbage storage, frequent trash pick-up and loading activities. In addition the owner has not defined the hours of use or whether there will be music, assembly functions or curbside dining, only that they may be open starting at 7 AM and late into the evening.

The adjustments needed to carry out this scheme are the antithesis of the zoning code and should be denied. The plan to develop the current 2,500 SF south portion of the site for outdoor dining and drinking, specifically abutting the residential zone without buffers or screening is of no benefit to the neighbors. The proposed added 1,000 SF deck above the rear yard overlooking the ground floor would be enhancements, **only for the benefit of the patrons of the bar/restaurant**. Further, the proposed addition to the building in the required setback includes the most unattractive uses including trash removal, mechanical and electrical equipment, circulation and loading area. These uses are proposed in an area of the site specifically designated to provide a buffer protecting the privacy and peaceful nature of the neighboring homes from the higher density and noisier activities anticipated here. In addition to the maintenance functions, the design proposed provides outdoor seating for drinking, congregating and dining in the areas closest to the neighbors. Such uses should be curtailed to the busier portion of the site on Thurman St. The planning code specifies that when a commercial use is adjacent to an “R” zone the residences should be shielded from the noise and proposed activity. Here are just 3 concepts for other ways to orient the outdoor uses which would better shield our low scale residential area from the activities of the food hall as required by code:



There is no inherent reason why the applicant cannot maintain a 10 foot setback, but for the fact that they plan to use this space for large outdoor gatherings weekends and evenings interfering with the peace and quiet currently enjoyed by the surrounding residents.

In addition, the proposed loading truck area immediately next to the Trolley Car Lofts is totally unattractive and will be noisy throughout the day. The planning code requires loading areas to have a 5 ft landscape buffer from the adjacent residences for this precise reason. The loading area also may not be located in the 10 ft setback, placing a truck area 15 ft to the north of the Trolley Car lofts and 5 feet to the east of the street facing property line. The neighbors

prefer that the entire rear yard be shielded from view, protecting our privacy, containing the noise and odors as well as restricting pedestrian traffic into the site from 28th Ave, other than in a possible emergency. Approval of the multiple adjustments provide the opportunity for unlimited active use of the space which will be incredibly disruptive to this otherwise quiet neighborhood bordering the site.

In response to the possible justifications for allowing these adjustments:

A. Granting the adjustment will NOT equally or better meet the purpose of the regulation to be modified

This proposal specifically provides for activity in the required setback that is objectionable in terms of noise and privacy of the surrounding residences.

The landscaping proposed is only for the benefit of the patrons of the bar/restaurant and would not provide any buffer for the residents to the south or the west as required by the planning code. Further roof decks at the 2nd floor will create more noise and clatter, detracting from the character of this quiet residential area.

B. If in a residential zone, the proposal WILL significantly detract from the livability AND appearance of the residential area:

The site borders a residential zone along the south side and is directly across from a residential area to the west. The neighbors do not want visibility into or from within towards our homes.

The property owner to date has had trash and junk piled in the existing back yard as well as debris on their sidewalks, detracting from the appearance of the area.

The open courtyard will impinge on the privacy and quiet enjoyment of the neighbors to the south and the west. The acoustic effects of the adjacent brick wall may create even louder sound reverberation. The development team hasn't addressed this issue. It requires further study.

C. More than one adjustment is being requested, the cumulative effect of the adjustment results in a project which is chaotic and disharmonious with the overall purpose of the zone.

The cumulative effect of the zoning adjustments results in a project which allows large crowds of people to gather in a space which is adjacent to a quiet residential zone. The combined adjustments create a final project which promotes loud crowds to gather daily and into the evening without protections for the neighbors. Furthermore, the outdoor experience can easily be accommodated on the north and east of the property where it is ONLY interfacing with property in the CM Zone, shielding the residents to the south and west from the increased activity.

D. City-designated resources and historic resources are preserved, and

The applicant has not shown any attention to retaining or restoring the original historic elements of the building.

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

The proposed landscaping is inadequate and the combined adjustments amplify the impacts on the neighbors. They would reduce the minimum required buffers of space and landscaping to non-existent buffers while claiming that the vibrant nature of the proposal will enhance the area and create community. Introducing a noisy exposed outdoor dining and gathering space adjacent to the property line is a setup for bad relations between the future occupants of the project and the surrounding neighbors. The project as designed exacerbates the impact due to

proximity of loud public use so close to the neighbors.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practical, or
The proposal as submitted does not include any specific environmental improvements.

Further to the above objections, the developer also has the food carts at 22nd Place which while enjoyed by many neighbors has created chaos for the nearby homeowners. The site is overcrowded and unpleasant for residential neighbors. As a result both adjacent properties were sold this year, and one of the 2 is being converted to commercial use. Similarly Cafe Nell's expansion has resulted in neighborly discord, the potential for which should be avoided through forethought and design choices that respect the reasonable needs of quieter neighbors in the adjacent residential zone. The project sponsor is attempting to create a neighborhood nuisance and should be redirected by the planning department to meet codes as well as to propose a project which would serve the common good.

Thank you for your consideration of these concerns as to the impact of the proposed project on the existing residents of the area. Please confirm receipt of this email at your earliest convenience.

Sincerely,

Mary DeVries
[2803 NW Savier St.](#)
[Portland, OR 97210](#)
415.307.6122

From: Mary DeVries
To: Besley, David
Subject: Fwd: FW: NWDA Planning Committee DRAFT Agenda - Dec 1 2022
Date: Thursday, December 1, 2022 12:09:53 PM



The City's email systems have identified this email as potentially suspicious.
Please click responsibly and be cautious if asked to provide sensitive information.

David,
I wanted to let you know I sent this to the members of the NWDA Planning committee as well as some closer neighbors. Erik has not replied to my emails or phone messages although he did present to this group earlier today.

Best,
Mary DeVries
2803 NW Xavier St.

----- Forwarded message -----

From: Mary DeVries <mary@abacusre.com>
Date: Thu, Dec 1, 2022 at 12:04 PM
Subject: Re: FW: NWDA Planning Committee DRAFT Agenda - Dec 1 2022
To: BCMWelch@gmail.com <BCMWelch@gmail.com>, Gayle Kvernland <gaylek@teleport.com>, Steve Pinger <steve@sspdev.com>, Wendy.Hawkins@gmail.com <Wendy.Hawkins@gmail.com>, alisonbhardin@gmail.com <alisonbhardin@gmail.com>, bristol.kelley@gmail.com <bristol.kelley@gmail.com>, <dennisharper@protonmail.com>, <elliogygansner@hotmail.com>, galatzsue@gmail.com <galatzsue@gmail.com>, greg.theisen@gmail.com <greg.theisen@gmail.com>, <hauseregina@gmail.com>, <jeremy.sacks@stoel.com>, jozell.johnson@gmail.com <jozell.johnson@gmail.com>, <jrca@aol.com>, <katelyncalevelli@gmail.com>, <kojaku@outlook.com>, parker@carbongrp.com <parker@carbongrp.com>, <ravrilakas@comcast.net>, <todd@mailboxblue.com>
CC: Jim McAdoo <quidam8@yahoo.com>, Lisa Selman <lselman31@gmail.com>, <MaryDeVries1@gmail.com>, Olivia Horgan <oliviahorgan@fastmail.fm>, <hauseregina@gmail.com>, <levinelliott@gmail.com>, nebpetch <nebpetch@gmail.com>

Thank you all for your time this morning. I don't know what the weight of the NWDA will be but I feel that the larger concerns of the immediate neighbors are being minimized by Erik and the Architect and being overlooked by the Planning committee. I am asking each of you to consider what your personal reaction would be to having a beer hall/wine bar with capacity for 175 people on outdoor decks overlooking your home operating from 7 AM - 10 PM and possibly midnight or even later on weekends.

Erik did not respond to questions about reconsidering the design to internalize the design, thereby drastically reducing the impact on the neighbors. He also did not agree to close off visual access to the first level loading or dining areas. Both Elliot and I raised these questions. Others asked about reorientating the deck towards Thurman and expressed concern about the acoustics of the space. Erik only addressed the delivery/garbage truck portion of the design and did not respond other than to say they were concerned about future neighbors across the street - so much for the existing neighbors. At least future neighbors will have the luxury of deciding whether to buy property across the street from his project - which we don't.

Like all of you, I enjoy the quiet scenic surroundings and while I appreciate the idea of having a vibrant gathering space close by I do not think it would be appropriate to force the neighbors to experience this from outside the venue. And requesting multiple adjustments against the residential interface simply points to the disregard for those of us most exposed.

Please consider this in any communication with the project sponsors and the planning department.

Regards,

Mary DeVries

On Tue, Nov 29, 2022 at 11:40 AM Steve Pinger <steve@sspdev.com> wrote:

Attached:

- [2788 NW Thurman](#) BDS Type II Notice – Adjustment Review

From: Steve Pinger <steve@sspdev.com>
Sent: Monday, November 28, 2022 3:40 PM
To: 'bcmwelch@gmail.com' <bcmwelch@gmail.com>; 'elliottgansner02@hotmail.com' <elliottgansner02@hotmail.com>; 'greg.theisen@gmail.com' <greg.theisen@gmail.com>; 'John Czarnecki' <jrca@aol.com>; 'JoZell.Johnson@gmail.com' <JoZell.Johnson@gmail.com>; 'kojaku@outlook.com' <kojaku@outlook.com>; 'parker@carbongrp.com' <parker@carbongrp.com>; 'Vrilakas, Roger' <ravrilakas@comcast.net>; 'Sacks, Jeremy' <jeremy.sacks@stoel.com>; 'Bristol Kelley' <bristol.kelley@gmail.com>; 'DennisHarper' <DennisHarper@protonmail.com>; 'todd zarnitz' <todd@mailboxblue.com>; 'Wendy Hawkins' <wendy.hawkins@gmail.com>
Cc: 'allan@nwexaminer.com' <allan@nwexaminer.com>; 'Erik Opsahl' <erik@saviederdevelopment.com>; 'vskryha@aol.com' <vskryha@aol.com>; 'barbara shepherd' <bgsxoxo@gmail.com>; 'millyguitron@outlook.com' <millyguitron@outlook.com>; 'William First' <firstwil@cbhs.edu>; 'Rebecca Lee' <2801middlebury@gmail.com>; 'P Michael Mackey' <lunamando@gmail.com>; 'Corinne Frechette' <corinnemfrechette@gmail.com>; 'julietkane@me.com' <julietkane@me.com>; 'NWNW Admin' <admin@nwnw.org>; NWDA Archive <nwda.archive@gmail.com>; hauseregina@gmail.com; Rick Michealson <rick@icppdx.com>; 'David Snyder' <dw_snyder@hotmail.com>; 'Peter Grabel' <petergrabel@gmail.com>; 'KS Brown CA Uraiqat' <sevengeaportland@gmail.com>
Subject: NWDA Planning Committee DRAFT Agenda - Dec 1 2022

Draft agenda for this week's meeting is below:

Attached:

- [2788 NW Thurman](#) submittals

From: [John Utz](#)
To: [Besley, David](#)
Subject: Case # 159396 AD
Date: Monday, December 5, 2022 12:27:55 PM

David Besley, Land Use Services
Re: LU 22-159396 AD

Mr. Besley,

We are John and Jo Ann Utz, owners/residents of a condo at 2761 NW Savier St., part of the Trolley Car Lofts HOA.

We are responding to the referenced land use review for 2788 NW Thurman, the property directly north of our building. This response is individual on our part, as the HOA president for our building will have a response as well, representing all owners. Our general sentiments regarding this proposal are in agreement with those of the HOA.

Simply stated, we specifically oppose the adjustment to the 10 foot setback and waiving of the Landscape Buffer. We offer the following reasons:

1. Our rooftop deck faces directly on the proposed development. We also have bedroom windows and 4 opening skylights on the same level. You can literally look across our parapet wall and see, smell and hear all activity. The proposed 2-story restaurant dining and drinking will bring all of this so much closer.
2. Our first-floor bedroom has 2 skylights that open unto the deck area and are very important to us because they are our only way of accessing outside fresh air. During the operation of a previous outdoor restaurant, we were plagued by noise, cooking odors, and late night partying. In fact, this restaurant tenant had a wood smoker operating which forced us off our deck and required us to keep our skylights closed due to the harsh smoke and odor. HOA complaints fell on deaf, often hostile ears.
3. Reducing the setback and eliminating landscaping will allow the developer to expand the building and crowd in even more activity, noise, and restaurant cooking odors closer to our building and home than ever before. It will allow outside access to a second floor dining area facing our home, deck, and bedroom at eye level. This is not a compatible use situated closely to residential zoning. It deprives us of our privacy, general livability, and will effect a loss of property value.
4. Reducing the alley setback to 6 feet will make it very difficult, if not impossible, for our building to maintain the exterior north brick wall. Not to mention the increased expense to all of us for restoration work under difficult physical circumstances.

In summary, regarding the City's own stated "Relevant Approval Criteria" this proposal DOES "detract significantly from the livability and appearance of the residential area."

You or anyone on your staff are welcome to come to our condo and see the potential problems. When we purchased in 2002, we were aware of restaurant use on the property but this proposal is a major expansion, with multiple tenants posing multiple problems with loss of enjoyment and potential loss of property value for all of us.

Thank you for your consideration,

Sincerely, John and Jo Ann Utz

From: [Claire Hanway](#)
To: [Besley, David](#)
Subject: LU 22-159396 AD
Date: Monday, December 5, 2022 5:36:55 PM

Just wanted to let you know my husband and I are happy to hear about the changes requested for this zoning project so someone will develop the old tavern into a more enjoyable and usable space in the neighborhood.

Claire
2923 NW Savier St

From: [nebptech](#)
To: [Besley, David](#)
Subject: Comments - Case File Number: LU 22-159396 AD
Date: Monday, December 5, 2022 5:37:47 PM

Hello Mr. Besley,

I urge you to reject the Land Use proposal Case File Number: LU 22-159396 AD.

Below are my comments which outline my opposition.

David Besley

Case File Number: LU 22-159396 AD

Land Use Services

Bureau of Development Services

City of Portland, Oregon

Dear Sir:

This document is my written comments in regards to the Land Use Proposal Case File Number: LU 22-159396 AD concerning the Site Address of 2788 NW Thurman St. in regards to your communication of November 17, 2022.

I urge you to reject this proposal as it does not conform to the Relevant Approval Criteria Section.

Relevant Approval Criteria Section A states, "Granting the Adjustment will equally or better meet the purpose of the regulation to be modified." The proposal does not address this criteria. It lists the setback and loading space changes the developer would like to make, but it in no way describes how granting the adjustment "equally or better meets the purpose of the regulation." All of the described changes in the proposal reduce the standards in the Portland Zoning Code, so they do not "better meet" them. It would seem that the Portland Zoning Code standards exist for specific purposes. One possible purpose is to provide space between commercial and residential properties and this proposal does not meet that criteria. Therefore, this proposal should be rejected.

The neighborhood does not have a deficit of food establishments that offer outdoor seating. There are already sufficient venues within walking distance of this address, and none are on

this scale or impact the neighbors like this.

Relevant Approval Criteria Section B states, “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 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 the area; and.” The proposal violates this Approval Criteria in regards to livability. The lower level outdoor seating, the external stairs, the stadium seating provide no privacy screening for the properties across the street on NW 28th Ave. Therefore, due to the impact on livability and the residential nature of nearby properties, the proposal should be rejected.

The scale of this project impacts livability with respect to noise, and the proposal does not offer any remediation for the residential properties in the vicinity. As this impacts livability, the proposal should be rejected.

The scale of this project will impact livability in regards to increased carbon emissions from automobile traffic, and parking. The number of potential food vendors implies the needed volume of diners to support those businesses will be detrimental to the residential nature of NW 28th Ave, the surrounding neighborhood, and the livability. Therefore, this proposal should be rejected.

Additionally, the Northwest District Plan called for promoting the commercial nature of Northwest Thurman. All of the adjacent commercial buildings are focused on NW Thurman. Regardless, of the classification of NW 28th Ave. between NW Thurman and NW Savier, this proposal does not support that intention of the Northwest District Plan. The proposal concerns developing space on the property on the opposite side of the property from NW Thurman. Development of the south-side of adjacent commercial buildings are either non-existent, or enclosed. This proposal is not consistent with the footprint of other commercial buildings in the vicinity. The development in this setback, loading area is inconsistent with the residential nature of my property, and the other residential properties along NW 28th Ave. between NW Thurman and NW Savier. The proposal should therefore be rejected.

Relevant Approval Criteria Section E states, “Any impacts resulting from the adjustment are mitigated to the extent practical; and”. Granting approval of this adjustment leads to the creation of the outdoor seating area, the stairs, and the stadium seating, it provides no mitigation for the neighbors in residences across from the setback, loading area. It does not mitigate noise and without an adequate privacy screen for NW 28th Ave, it provides no mitigation for the residential nature of those properties which are homes where people live. For this reason, the proposal should be rejected.

It is hoped the comments above illustrate the many concerns regarding how this proposal is inconsistent with the Relevant Approval Criteria. The scale of this proposal is inconsistent with the nature of the adjacent commercial properties, the residential properties along NW

28th Ave., and the surrounding neighborhood. It does not promote the livability or residential nature of the area. And that these comments allow you to decide to reject this proposal

Peter Beninato

1715 NW 28th Ave.

Portland, OR 97210

From: [Michael Kirk](#)
To: [Besley, David](#)
Subject: Resident of 2928 NW Savier in Support of 2788 NW THURMAN ST Development
Date: Monday, December 5, 2022 8:08:47 PM

Hello David,

I'm writing to express support of the development on 2788 NW THURMAN ST. I live at 2928 NW Savier St, Portland, OR 97210.

One of the reasons I moved to this neighborhood was for the local restaurants. Two of which (Mai Phai Thai and Crackerjacks), were sadly closed due to the pressures of the pandemic. This site (the former location of Crackerjacks) has become a run down building and an eye sore to the neighborhood. It needs to be re-built.

In my time in this neighborhood, restaurants have been part of the character and served as a way to bring the community together. While I can't be certain what types of businesses will move in, this development may help bring back some of this community feel that was lost when Crackerjacks and Mai Phai Thai closed.

The designs seem reasonable and I see it as a net positive for the neighborhood. Thank you for your consideration.

Mike Kirk

From: [thedruma](#)
To: [Besley, David](#)
Subject: Rezoning on Thurman Street at Old CrackerJacks
Date: Wednesday, December 7, 2022 3:10:13 PM

Dear Mr. Besley,

Most who line here on Thurman are alarmed at the proposed zoning adjustments being sought after by developers interested in the old Cracker Jacks establishment. The adjustments are clearly not in line with the long time residential character of the 27-28 block of Thurman. Granted there are some small scale commercial interests, but they are not even close to the scale being proposed. Even the back patio of Cracker Jacks was often a source of disturbance of the peace and I had to call that establishment many times to have them turn the music off during the evening. Drunk people like their music loud! The new zoning promises more of this and any assurances by any developers are very likely going to be nothing but hot air.

This is only one aspect of the problem. Others to take into consideration are traffic and congestion issues. Since Thurman is the gateway to the part, it is a busy street already at a level dangerous to pedestrians. Parking is also at a complete premium and tax paying residential citizens should not have to fight with restaurant patrons for the few spaces that are available. This is especially true given the scope of the expansions envisioned and planned for. The pressures created will encourage people to park where they should not, as I have often also experienced.

Sincerely,

Tom Barbara
2736 NW Thurman

From: [Richard Hicks](#)
To: [Besley, David](#)
Subject: case file number, LU 22-159396 AD
Date: Wednesday, December 7, 2022 3:11:41 PM
Attachments: [variance.doc2.pdf](#)
[ATT00001.htm](#)



The City's email systems have identified this email as potentially suspicious.
Please click responsibly and be cautious if asked to provide sensitive information.

To: David Besley, Land Use Services
Re: case file #: LU 22-159396 AD

Please see attached PDF. Thanks. Richard Hicks

To: David Besley, Land Use Services
City of Portland
Bureau of Development Services

Re: case file #: LU 22-159396 AD

Please note that I live with my family of four directly across the street on 28th Ave from the proposed repurposing project at the corner of NW 28th and Thurman. **I am writing in opposition to the requested variance.** The proposed changes are presented without enough information to adequately assess necessity (incomplete drawings and inadequate information about the business to be operated at that location) and lack an argument in support of the needed variance in the provided materials. The sparse presentation comes across as either a bad faith attempt to communicate or one rife with naiveté about what might be needed by those effected to make a reasoned contribution or judgement.

But from what I can discern from the minimal packet (one strangely populated with so little information) and from neighborhood conversations is that the owners plan to substantially increase the service capacity at the location so that what was once a small restaurant / bar will become a space that houses nine or more mini-restaurants and provides indoor and outdoor areas for patrons to eat and drink.

The increased scale of a service business operating within the umbrella of this new larger repurposed building not only is a substantial change from the previous scale of business in that space but will, if successful, lead to a major increase in noise and traffic from patrons, and because of the open roof deck cause a measurable loss of privacy to adjacent neighbors. The noise from a regular trash-pick-up routine as well as from delivery trucks on 28th, for such a large number of restaurants, will be intrusive probably on a daily basis, as would the smoke and odors from so many kitchens operating simultaneously.

To restate - **I oppose the variance as requested due to livability concerns.** More information is needed about the scale of the operation and about mitigation related to visual privacy from the roof deck, cooking odors from multiple kitchens, the trash and delivery routine and location, parking impacts and noise. **Alternatives to the current plans should be explored that will have less impact on the adjacent neighborhood residents and align better with the intentions of current land use and zoning rules** (for example - could deliveries be received and trash be gathered and picked up on Thurman which is already zoned as a commercial corridor? Could the roof deck be enclosed by a privacy barrier or shifted to look over Thurman rather than into the neighborhood on 28th etc).

And please require applicants to at least make a sincere effort to communicate the entirety of plans in future outreach. Complete information is necessary to contextualize the impacts and necessity of the request.

Thanks

Richard Hicks
1725 NW 28th Ave.

From: [Linda Walton](#)
To: [Besley, David](#)
Subject: Fwd: Objection to Proposed Zoning Adjustment 2788 NW Thurman
Date: Wednesday, December 7, 2022 4:01:05 PM

----- Forwarded message -----

From: **Linda Walton** <wananling@gmail.com>
Date: Wed, Dec 7, 2022 at 3:53 PM
Subject: Objection to Proposed Zoning Adjustment 2788 NW Thurman
To: <David.Besley@portlandoregon.edu>
Cc: <MaryDeVries@gmail.com>

Dear David Besley,

As a longtime resident of the neighborhood surrounding the former Crackerjacks Tavern, I want to register my strong objection to the proposed zoning adjustment. The proposed development would dramatically alter the immediate area, and bring with it a totally different level of noise and congestion. Currently, there are two commercial businesses in the same block, a restaurant and a cafe, both of which fit the neighborhood profile and don't disrupt the daily lives of those living near them. This would be totally different. Crackerjacks was a neighborhood tavern (and the adjoining artist studios were also a plus for the neighborhood and a sad loss). But the proposed development would bring a huge and problematic change to the neighborhood, essentially setting up a non-neighborhood establishment that would draw in traffic to add to parking congestion and the general noise level.

We've put up with the loss of older buildings and the erection of condos and apartments, with and without parking, but this would really change the neighborhood for the worse.

I also find it objectionable that I have not received notice of this before a letter arrived today from another neighborhood resident. Why wasn't there earlier notice from the city about this proposed adjustment? And the deadline for comment is in 24 hours!

Sincerely,
Linda Walton
2865 NW Raleigh St.

From: [Greg Passmore](#)
To: [Besley, David](#)
Subject: NW Thurman / 28th Development / Crackerjacks
Date: Wednesday, December 7, 2022 5:11:28 PM

Hi David,

I'm a homeowner on the same block as this project (on the thurman side, 2748 nw thurman) and I support this project. I received a letter from a " Mary DeVries" asking me to email you and show opposition to the project. She says she owns the house at 2803 Savier and recently moved here for the quiet neighborhood. Turns out the letter she sent me was mailed from San Francisco, and she has her house listed for rent, so I'm not sure what her motives really are.

Anyway, I'm somewhat concerned about parking overrun with this new development (i have to park on the street), but otherwise welcome it with open arms.

Thanks,
Greg Passmore

David.besley@portlandoregon.gov

CASE FILE NUMBER: LU 22-159396 AD

Applicant: Philip Sydnor Integrate Architecture & Planning 1919 N Kilpatrick Portland, OR 97217 Phone: 503.528.9899, Email: phil@integratearch.com

Owner's Agent: Erik Opsahl Savier Development 2724 NW Savier St Portland, OR 97210

Owner: Nascent Collective LLC PO Box 29107 Portland, OR 97296

Site Address: 2788 NW THURMAN ST

Dear David,

My comments regarding the proposed Food Hall & Beer Garden at the subject property are included here.

My spouse and I have lived on NW 29th for almost 27 years. The intensity of use proposed is inappropriate for this mostly residential neighborhood.

In order to be approved, this proposal must comply with the approval criteria of Title 33.

The relevant criteria are:

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

It's hard for me to understand how adjusting a buffer to reduce or eliminate the buffer can meet the purpose of an established regulatory buffer. The basic definition of a buffer is "1. a person or thing that prevents incompatible or antagonistic people or things from coming into contact with or harming each other." Oxford English Dictionary. Or we can use Websters – as used by the Oregon Appellate Courts and LUBA - where the relevant definition of a buffer is "something that serves as a protective barrier".

Under either definition, (and both may be applicable), reducing or eliminating the "buffer" cannot "equally or better meet the purpose" of the buffer. The whole point of a buffer here is to prevent incompatible or antagonistic people or things from coming into contact with each other, or to serve as a "protective barrier." I am perplexed as to how reducing or eliminating a buffer will "equally or better meet" the purpose of a buffer, particularly where, as here, we have a residential use and Cm2d zone immediately adjacent to the proposed adjustment – and the buffer is presumably in place to serve as a protective barrier between the two sometimes incompatible uses.

If the purpose of a buffer is to buffer, the adjustments needed to carry out this proposed scheme cannot meet the adjustment criteria standard and should be denied. The plan to develop the current 2,500 SF south portion of the site for outdoor dining and drinking, specifically abutting the residential zone without buffers or screening. This is of no benefit to the neighbors and would, in a reasonable view of things, seem to call out for a larger buffer than the zoning code currently provides, not less of one. The proposed added 1,000 SF deck above the rear yard overlooking the ground floor would be enhancements only for the benefit of the patrons of the bar/restaurant. There will be no buffer for the impacts of this proposed use – noise travelling to neighbors - and no good neighbor agreement will solve that, as suggested by NWDA. Witness the ongoing nonsense occurring at Café Nell where a good neighbor agreement has apparently been in place for quite some time, but to no avail.

Further, the proposed addition to the building in the required setback includes the most unattractive uses including trash removal, mechanical and electrical equipment, circulation and loading area. These uses are proposed in an area of the site specifically designated to provide a buffer protecting the privacy and peaceful nature of the neighboring homes in the residential zone from the higher density and noisier activities anticipated here. In addition to the maintenance functions, the design proposed provides outdoor seating for drinking, congregating, dining and a “beer hall” in the areas closest to the neighbors. Such uses should be limited to the busier portion of the site on Thurman St. or kept indoors. The planning code specifies that when a commercial use is adjacent to an “R” zone the residences should be shielded from the noise and proposed activity. I am aware of no shield for the noise that will occur here.

Perhaps a buffer would help?

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

It strains credulity to think that this intensive proposed use will not detract from the livability of the adjacent residentially zoned areas or is consistent with the desired character of those areas. This is a residential area. The subject property was, for decades, an unobjectionable, low intensity use at the very end of the Cm2d zone. This proposal will put what looks to be one of the highest intensity uses in all of Northwest Portland with the largest potential for crowds, noise traffic, parking issue, and undesirable operational impacts like garbage service and so on at the very end of the zone. While this development might be appropriate on NW 23rd St. it is seriously out of place and scale and inconsistent with the desired character of this area where proposed.

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;

For over two decades, I was a patron of the Crackerjack’s bar and other small businesses over time in the subject building. Crackerjack’s was a neighborhood bar, with operations largely though not exclusively confined to the interior of the building. Employees from ESCO came over for lunch. Yes, there were, rarely, some rowdy customers, but never in our experience was there a crowd of 175-200 people gathered at the premises at any one time as there would be under the current proposal for the space. Certainly, Crackerjack’s was never a “beer hall” with 175-200 people milling around outside.

The current proposal represents a major increase in the intensity of the use of the site. A crowd of that size is inappropriate for this residential neighborhood. Impacts that must be considered under a cumulative impacts analysis include noise, parking, traffic, the effects of business operations on neighbors, risk of DUI on our streets and the inconsistent nature of the proposed enterprise with exclusively residential zoned areas adjacent to the subject property. This proposal specifically provides for activity in the required setback that is objectionable in terms of noise and privacy of the surrounding residences.

History is important in terms of the desired character of the area and cumulative impacts. Crackerjack’s customers often walked to and from the bar. It was a low key, neighborhood operation and hardly a destination that attracted clientele from outside of the area. The bar did not generate car traffic, parking demand, parking problems or to my knowledge, many drunken drivers parking and driving through my

neighborhood. The proposed operation is not a neighborhood operation like its predecessor but instead a destination venue “beer hall” which will attract people from outside the neighborhood, a substantial percentage of whom will no doubt drive to the site.

Increasing the intensity of use of this site in the proposed fashion will likely add pressure to meter parking on my street in the future – NW 29th Ave, in addition to the other impacts noted above, causing impacts outside of the CM2d zone in the exclusively residential R 5 zone where I live. Approval of the multiple adjustments will provide the opportunity for unlimited active use of the space which will be incredibly disruptive to this otherwise quiet neighborhood bordering the site. These are cumulative impacts that must be considered given that two concurrent adjustments are being requested.

The cumulative effect of the zoning adjustments results in a project which allows large crowds of people to gather in a space which is adjacent to a quiet residential zone. The combined adjustments create a final project which promotes loud crowds to gather daily and into the evening without protections for the neighbors. Furthermore, the outdoor experience could easily be accommodated on the north and east of the property where it is ONLY interfacing with property in the CM Zone, shielding the residents to the south and west from the increased activity.

D. Any impacts resulting from the adjustment are mitigated to the extent practical; and

One way to mitigate some impacts here would be to place the outdoor elements of the proposal facing Northwest Thurman St. rather than immediately adjacent residential properties – or keep them indoors. However, even doing that will not mitigate for noise, parking traffic and operational issues resulting from this proposal. My understanding is that other commenters have proposed design changes that might mitigate some of these issues to the site developers. I understand those modifications were dismissed out of hand. Not encouraging in terms of that good neighbor agreement the NWDA suggests.

I’ve lived here a long time and intend to continue doing so. This proposal would allow an intensity of use that is inconsistent with the character of my neighborhood and those who live near or adjacent to the subject site. No buffers should be relaxed or eliminated.

Thank you for your consideration of these concerns as to the impact of the proposed project on the existing residents of the area.

John DeVoe
1725 NW 29th Ave
Portland, Oregon 97210
streamflowguy@gmail.com

From: [Susie Stragnell](#)
To: [Besley, David](#)
Subject: Case File Number, LU 22-159396 AD
Date: Wednesday, December 7, 2022 8:25:13 PM

Hi David,

I'm writing about the Revised Notice of a Type II Proposal in my neighborhood. I have some serious concerns about the size and scope of the proposal. (Case File Number, LU 22-159396 AD)

I've lived in this neighborhood for almost 30 years and part of the charm is the community - neighbors caring about other neighbors - as well as the walkability and the availability of many businesses on NW Thurman (and a few tucked into the neighborhood on NW 24th). These are mostly small places that are in keeping with the neighborhood.

While there is already an existing tavern on this property, it sits in the middle of a residential zone - in fact it abuts residentially zoned sites. The proposal should fit in the neighborhood and there should be no exceptions to the setbacks. The proposals significantly detract from the livability and appearance of the residential area and aren't in keeping with the desired character of the area. Let's think about fitting the scale and character of the neighborhood.

I propose that The Bureau of Development Services will deny the proposals.

Thank you for your time,

Susan L Stragnell

Proposal Notice for LU 22-159396 AD Page 3

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

D. City-designated scenic resources and historic resources are preserved (not applicable); and

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

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable (not applicable).

From: [Glenn Ford](#)
To: [Besley, David](#)
Subject: Nascent Collective Llc
Date: Wednesday, December 7, 2022 10:08:20 PM

December 7, 2022

Mr. David Beasley

Land Use Services

Bureau of Development Services

City of Portland

Dear David,

My wife and I are residents of the Trolley Car Lot Building, 2759 NW Savier St. We are a party to and in agreement with the complaint lodged against Nascent Collective Llc by the Trolley Car Loft Home Owner's Association.

We have lived at this address since 1998 and have dealt with a range of issues stemming from the operation of the Crackerjack Tavern by two separate owners: noise, public drunkenness, barbecue smoke, etc... The demise of the Crackerjack was a welcome outcome in our opinion.

Unfortunately, the Nascent Collective Llc repurposing of the property brings greater concern. The scale of the project will magnify the problems posed by the Crackerjack. The livability of our home will be negatively impacted. The proposed large outdoor space facing our building rather than away and the encroachment on an established buffer zone will be detrimental to all of the homes in the immediate vicinity.

The only acceptable solution to the problem posited by Nascent, is to redesign the building utilizing the Thurman Street-facing portion of the building as the public gathering space. This aligns with existing dining establishments approved by the city and accepted by the neighborhood: the Clearing Cafe and the recently opened Alouette wine bar. Further, hours of operation must be limited to 9:30 PM. This time coincides with the closing at Alouette and grants residents the quiet hours needed to coexist with businesses.

My wife and I appreciate the opportunity to comment.

Sincerely,

Glenn and Deanna Ford

2759 NW Savier St.

Portland, Oregon 97210

Sent from my iPad

From: [Reinier Warschauer](#)
To: [Besley, David](#)
Subject: Proposed Zoning Adjustment / 28th & Thurman St Beer Garden
Date: Wednesday, December 7, 2022 10:45:40 PM

Reinier Warschauer
2856 NW Thurman Street
Portland, Or. 97210

December 7, 2022

Re: Proposed Zoning Adjustment / 28th & Thurman St Beer Garden

To : David Besley

Since 1998 I have enjoyed living half a block away of this location, and the previous setup on this location, a small bar like Crackerjacks was small scale and has been acceptable.

What is happening now seems outrages, the new Proposed Zoning Adjustment / 28th & Thurman St Beer Garden.

Changing the existing setback rules, moving closer to the neighboring block, and on top of this old structure adding an extra level and creating lots of extra outdoor seating will be very disturbing to a much bigger area than what crackerjacks was doing.

It does not look like that the applicant is willing to meet the intent and purposes of the setback as it moves all the undesirable activities of trash, deliveries, along with outdoor patios on both the ground and second floor and the subsequent noise, odor, etc into this buffer area with no proposal to lessen the impact on surrounding neighbors and **therefore this proposed zoning adjustment should be denied.**

Let's stick to the existing setback rules, keep this restaurant bar beer garden a lot smaller not create another Café Nell like situation on this corner

Sincerely,

Reinier Warschauer

From: [Lisa T](#)
To: [Besley, David](#)
Subject: Nascent Collective LLC proposed Food Hall and Beer Garden @ 2761 NW Thurman Street
Date: Wednesday, December 7, 2022 10:49:01 PM

David Besley
Planner
Bureau of Development Services
Land Use Services

Re: LU 22-159396 AD

Dear Mr. Besley,

My name is Lisa Taaffe and I am an owner/resident of a condo located at 1704 NW 28th Ave, part of the Trolley Car Lofts. My comments regarding the proposed plan to convert the former Crackerjack Restaurant at 2788 NW Thurman Street into a Food Hall and Beer Garden are submitted here for your consideration.

The bedroom and living room windows of our condo at 1704 NW 28th face 28th Street, which is a residential street in a residential neighborhood. This proposed project takes up the corner of NW Thurman and 28th, with the "open air" part of the proposed design located entirely on NW 28th, next to our condo.

My family will be directly impacted by the noise, trash/trash collection, crowds and cooking smells generated by this project. As designed, the outdoor area - which includes a deck with picnic tables and louvered glass doors that will open up to the deck, and stadium seating for "hanging out" - will accommodate over 100 people at one time (according to the owner during a recent meeting).

This project has concerned me since the beginning, but I wanted to give the owner a chance to explain in person, and see what he planned to do to mitigate noise, crowds and cooking smells.

After meeting with him yesterday, I do not feel reassured. He ignored our concerns and suggestions regarding placement of outdoor bar/eating area, as well as our worries over multiple kitchen ventilation emissions and sounds.

1. **First, since the property was purchased by the current owner, it has not been well maintained.** The fenced area that was previously outdoor seating for Crackerjack still has broken furniture, and random items not yet removed.

This worries me since it does not suggest the owner will take good care of property

that he is proposing to double in size.

2.

Second, the **design of the project situates an open seating deck and stadium seating on the 28th street side of the building**. This means it is oriented towards the residential neighborhood rather than the commercially zoned area on Thurman Street. During our meeting last night, the Owner was asked if he would could simply reorient the not yet built 2nd story so that the outside deck was overlooking commercially zoned Thurman street instead of our building. **Owner said No because he wants southern exposure for the outdoor deck**. He also stated that people would only be outside in summer.

This answer was, frankly, disingenuous considering the use of space heaters and tents during winter months for outdoor dining. In addition, he said reorienting the deck to the front, where it would **overlook an EMPTY LOT ON THURMAN STREET**, would be loud for people who may buy a condo if one is built on the empty lot in the future. We said, "Well they will have a choice to buy the condo or not. We don't."

This does not bode well for his willingness to accommodate neighborhood concerns once the project is operational.

Note, please, that **no one asked him to eliminate or minimize his planned outdoor eating spaces (which would be my ideal scenario, honestly)**. We asked him to **reorient** it to reduce the noise and number of people looking in bedrooms and decks.

3.

Residents of the Trolley Car lofts have skylights and rooftop decks as our outdoor space. We use those skylights to cool our condos, as well as allow fresh air in. Many of the owners spend a lot of time on the deck, and it is a selling point for our condos. The noise and smells from the 15 person outdoor eating area at The Crackerjack flowed into condos from skylights and was irritating all summer long. We all bought our condos knowing there was a bar next door that had a **small** outdoor eating area and lived with this inconvenience. As we have already lived through this on a small scale with Crackerjack and know the direction the sounds and cooking odors will go. Owner committed to bringing in an audio engineer during a neighborhood meeting last week, but has not yet moved on that and I am not sure what they can tell us that we haven't already experienced.

4.

The entire expansion of a 2nd floor will bring in more noise, more people, and more odors than a small neighborhood bar - particularly as the project involves multiple vendors providing food. It faces our outdoor decks and some owners' bedrooms. It is not compatible with residential zoning. It deprives us of privacy,

general livability and will negatively affect property values. **The current design impinges upon our right to use our property as we wish, and Owner's unwillingness to address this through design changes is a primary concern of this renovation.**

5.

Our unit in particular is impacted by foot traffic and smokers. Since smoking won't be allowed at the project, smokers will gravitate up NW 28th to talk and smoke. Previously, when smokers and talkers were under our windows at night, we had just a few people to send on their way. However, with the increased size of this project, there will no doubt be more smokers and more noise. I cannot walk over to a group of people hanging out drinking in stadium seating or a deck specifically provided for them to eat in, and tell them to move on as I'm trying to sleep. Given the owners lack of concern for us during the planning stage, I do not expect him or his manager to be responsive once the project is built.

If the project's outdoor space were reoriented towards NW Thurman rather than NW 28th, smokers would move down Thurman street towards businesses rather than towards residences on 28th Street and Savier. At the very least, it would reduce the number of people talking and smoking in front of my windows.

When this was discussed, the owner's response made no sense. He claims that this will be an upscale project not a dive bar, and thus will have a different clientele. People in this neighborhood smoke and talk just like people in other neighborhoods. As the only tenants owner seems certain of are a wine seller, a bar, and yet unnamed indoor food carts, I fail to see how this will reduce people eating, drinking, talking, leaving trash and smoking outside my condo.

6.

The design **reduces alley access for Trolley Car lofts to maintain the brick wall facing the proposed project.** It will result in increased costs for maintenance work. So in addition to our reduced property values, we will have increased maintenance costs.

7.

We were not provided answers to other questions we asked:

a.

What is the parking plan in an area with already limited parking (owner said it will be a neighborhood place so people will walk)?

b.

Perhaps most alarming (besides the refusal to consider reorienting the outdoor area to the commercial side of the building) is the owners inability to commit to operating hours. Will we begin having coffee patrons sitting on stadium steps at

6:30 or 7 am and bar patrons until midnight? This is very concerning.

C.

What types of food providers will be located in the building, and how do you plan to vent the cooking smells?

In conclusion, I fail to see how this project adds to the diversity of offerings, benefits the neighbors or enhances the neighborhood. We have a food court on 23rd place. We have struggling restaurants and bars along Thurman as well as on NW 21st, NW 22nd and NW 23rd. We have a food co-op on NW 23rd place and New Seasons on 21st if we need take out food. Adjacent to the proposed business, we have a coffee shop and wine bar, which this will most likely put out of business, leaving empty storefronts.

Finally, a neighborhood architect (Mary DeVries) has made recommendations to make this project have a smaller impact on the residential part of this neighborhood. We do not see these recommendations being considered by Eric.

I hope the planning board does not approve the project as it currently exists and works with the owner to come up with concrete ways this will minimize the negative impact on neighbors.

Regards,
Lisa Taaffe
1704 NW 28th Ave
Portland, OR 97210

From: [Zak S](#)
To: [Besley, David](#)
Subject: Re: Concerns about LU-22-159396
Date: Wednesday, December 7, 2022 11:15:30 PM

Dear David,

Since the deadline is tomorrow at 5pm, I will go ahead and send you my concerns regarding this land use adjustment request.

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

With respect to addressing the purpose of the regulation, the applicant has only addressed the privacy of the trolley car loft condominiums and has completely ignored the privacy of the other residents on 28th Ave who will be substantially impacted by the large overlooking deck.

The applicants have not addressed other purposes of the regulations -- "to match the desired use with the character of the area" and "to control the overall bulk of development". The proposed structure is certainly not harmonious or in character with other CM2 structures in the nearby blocks, both in terms of setback as well as bulk. This site would be the first exception and hence needs a careful review. The bulk of the development has the potential capacity of about 200 customers, all afternoon and evenings. That is completely out of character with any other commercial structure in the neighborhood by a large margin. The setbacks should be enforced and the adjustments should not be granted so that the high impact of supporting such a high capacity can be absorbed by the site and does not spill over to 28th Ave and the associated sidewalk. Isn't this the whole purpose of setback to contain the activities of the site?

The loading zone setback of 5' feet is already small for such a high capacity usage. The applicant has not articulated how reducing the setback to 0' will equal or better the purpose of this setback. Instead, the setback should be enforced so that the activities do not spill over to the street and the sidewalk.

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.

All the changes proposed degrades the livability and the appearance of the residential area. The applicant states that the open courtyard is a benefit to the neighborhood. It is not at all clear how it benefits anyone other than the establishment. Having a boisterous crowd, on a deck, adjacent to a residential block will only increase the noise and disturbance. There is also no mention of how late the establishment will be open or other constraints that could lessen the impact.

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.

Again, the applicant has not articulated how the cumulative impact of the adjustments will be consistent with the overall purpose. The development will create more impediments to this

pedestrian-friendly neighborhood. The garbage (see for example the lines of garbage bin at the applicants other development on food cart), the loading zone activities, the exceptionally high vehicular traffic with this disproportionately bulky development will cumulatively be detrimental to serving the local neighborhood which is the ultimate purpose of the mixed zone commercial designation.

Izhak Shafran
2824 NW Savier St

On Wed, Dec 7, 2022 at 4:07 PM Zak S <tamarindpdx@gmail.com> wrote:

Hi David,

I have concerns about the adjustment sort in the above application. I only heard about this project today. Should I have received a notice as well?

Is it possible to get an extension on the current deadline (Dec 8th, tomorrow) to understand this project fully so I can send my relevant concerns?

Zak (neighbor on the Savier block)

From: [Sue Galatz](#)
To: [Besley, David](#)
Subject: Development - 28th and Thurman
Date: Thursday, December 8, 2022 6:23:49 AM

Dear David and the City Planning Team,

I'm reaching out regarding the proposed development at NW 28th and Thurman (previously Crackerjacks location).

The possibility of having a refreshed commercial business on the corner, one that thrives and enhances the neighborhood without detriment to the residents and the peaceful environment, is promising.

I've lived on Savier Street between NW 27th and 28th for nearly 30 years. Our block is a tight community - some might say "block goals" - and represents the best of Portland's neighborly vibe. Erik (the developer) also resides on the block and is part of the block family.

My concerns aren't with Erik or the idea of development. The challenge is how to find the balance and solution that's a win/win for the business and neighborhood. the business.

My three concerns are:

- Increased noise levels - both decibel and operating hours. How can noise be limited and filtered after 9 pm.
- Increased traffic and parking on nearby residential streets (what parking demands are currently estimated)
- Vagrancy and loitering in outdoor area. Can outdoor areas not be accessible during non-business hours?

Preserving the peaceful environment is key. Our block is quiet. Let's keep it that way.

At a time when the property taxes are at a peak and the state of the city is not, let's not give people another reason to be disenchanted. Let's set this up to succeed for everyone.

Thanks for your time and would appreciate understanding how neighbor concerns are addressed.

Best,
Sue Galatz

From: [g.s](#)
To: [Besley, David](#)
Subject: Fwd: Beer Hall development at NW Thurman St & 28th Ave
Date: Thursday, December 8, 2022 8:31:25 AM

Dear David,

As a resident and property owner in the Willamette Heights neighborhood we are excited to learn of the Beer Hall development at NW Thurman St & 28th Ave. Having walkable, entertaining places nearby is a hallmark of life in Portland. However, we need to be conscientious in our design and planning so these new developments provide positive experiences and not nuisances for adjacent neighbors. For example, the applicant does not meet or exceed the intent and purposes of the setback as it moves all the undesirable activities of trash, deliveries, along with outdoor patios on both the ground and second floor and the subsequent noise, odor, etc into this buffer area with no proposal to lessen the affects on surrounding neighbors and therefore should be denied.

Mary DeVries has pointed out some very insightful issues (and solutions) to the proposed development and I completely concur with her stance to deny the allowance. The project needs further refinement, study and input from neighbors in the proximity of the development in order to serve the community in a positive way.

Thank you for your time,

Greg Simons and Anne Harris
2847A NW SAVIER ST 97210

Greg Simons, Studio G
founder | designer | craftsman
custom fabrication + special projects
hand-crafted furniture made in Portland, Oregon
studioGcreations.com
971-279-7032

From: [Jordon, Shelley Ilene](#)
To: [Besley, David](#)
Subject: Proposed Zoning Adjustment / 28th & Thurman St Beer Garden
Date: Thursday, December 8, 2022 9:17:18 AM

Shelley Jordon
2473 NW Pettygrove St
Portland, OR 97210
503 313 1806

December 7, 2022

Re: Proposed Zoning Adjustment / 28th & Thurman St Beer Garden

Dear David Besley

I am a long-time home owner and resident of Northwest Portland and take daily walks down Thurman Street to and from Forest Park. After reviewing the proposal for the new Proposed Zoning Adjustment / 28th & Thurman St Beer Garden **I strongly oppose it!**

This is a quiet residential neighborhood, not a busy thoroughfare and allowing an establishment of this scale would be disruptive and have all kinds of negative impact on the quality of life of nearby residents; including noise, garbage, parking issues, deliveries and rodents. We should keep the existing setback rules and have the restaurant bar beer garden built within the current guidelines.

I believe that this proposed zoning adjustment should be denied.

Sincerely,



Shelley Jordon

From: [martin davidson](#)
To: [Besley, David](#)
Subject: Proposed Zoning Adjustment/28th & Thurman Street Beer Garden
Date: Thursday, December 8, 2022 9:54:38 AM

David:

I am writing by way of comment for the proposed Zoning Adjustment for the property located at 28th & Thurman Streets in the old Crackerjacks location. I have lived in this NW Neighborhood for 35 years and have seen it change quite a bit over that time. I believe most of these changes have enhanced its livability. I have not been able to open a link that describes the project fully but have been informed by a concerned neighbor about its potential scope. While I don't object to the revitalization of this property, the information I have been given suggests a much larger impact than was provided by Crackerjacks.

My concerns are two fold:

(1) Our neighborhood has no more room for additional parking. The Zone M parking has pushed more long term parking into the area above 25th resulting in less street parking for residents of the area. I know of two cars that are owned by people living below 25th that are parked for weeks at a time between 27th and 28th so that they can avoid paying for a parking permit. In addition, many people park above 25th and walk to 23rd to avoid the paid parking. The addition of a new, large project such as the one proposed on 28th & Thurman would exacerbate this situation. Without some allowance for off street parking somewhere outside the residential areas of NW Portland that surround this project, I can not support a project of this scale.

(2) As I understand it, there is nothing that would preclude sidewalk and street seating on 28th between Thurman and Savier streets. While I don't object to such seating on Thurman, bleeding this seating onto 28th would be unfair to the adjacent residential properties especially if it is to be a beer garden. The noise generated by such a use could cause a degradation of livability for the neighbors on 28th. In addition, any rooftop seating should be buffered to the south for the same reasons.

Best regards,
Martin Davidson
2756 NW Raleigh Street
Portland, OR 97210
503.313.8556

December 8, 2022

Dear Mr. Besley:

It has just come to my attention that the proposed changes to the previous tavern, known as “Crackerjacks,” on the SE corner of Northwest Thurman and 28th Street require a significant number of variances from the existing use code.

As a long-time resident on Thurman, I have seen many changes to the neighborhood--infill provided for by new housing density codes, small businesses and shops have appeared in previous residential buildings, and traffic has increased. None of these developments have disrupted the existing fabric of what is essentially a residential community that has long existed on the edges of both a commercial and industrial zone. Those who chose to live in the surrounding blocks are happy to have the opportunity to patronize local businesses, many of which provide essential services to support the surrounding area. We have a vibrant, thriving population with an excellent elementary school (Chapman), public housing, and a mix of multi-family dwellings, single family homes, and a community center (Friendly House) which offers daycare, meals, and assistance to elderly and fragile families.

This proposal and the list of variances the owners are requesting to the existing code demonstrate a complete lack of awareness of the surrounding blocks. It will “significantly detract from the livability or appearance of the residential area.” The previous 80-year-old tavern on this site, (Crackerjacks/Swanee’s) was a good neighbor and was “right-sized” for the surrounding housing. It was a thriving business; the previous tenants who lost their lease when the building was sold had just made some improvements and to my knowledge its clientele were rarely disruptive. The owners were respectful and cognizant they were on the edge of a residential neighborhood. There is nothing consistent with adding a second-floor patio, 9 small restaurants, and an open space to support the local neighbors “which can be mitigated” when reviewing livability.

I would also point out that the proliferation of outside seating opportunities that were created during covid to sustain businesses is now under review across the city due to conflicting building codes, noise nuisance, and traffic concerns. One only needs to see the chaos that nearby Café Nell has created by its expansion and the poisonous relationships between that business and surrounding community to be concerned about replicating the same problem on this quiet corner. Threats of litigation, angry confrontations and hostility have arisen because a small business, to maintain operations during covid has expanded its footprint beyond the capacity of the surrounding blocks. We should not allow the same scenario to play out here. Granting an adjustment for this tavern to add outside dining, decks, sidewalk seating, etc. is completely unrelated to covid, and if the owner’s business model relies on packing 150-200 people into a small space and assuming that the sidewalks are sufficient to absorb them is not a sufficient argument to create a nuisance that nearby residences must tolerate.

While the NWDA has approved this plan in theory with the proviso that a Good Neighbor Agreement be drafted to address issues that will inevitably arise by approval of the adjustment, I am not confident that these property owners will adhere to it. They have already shown a lack of good will through ignoring the impact that their overcrowded food cart pod elsewhere in the neighborhood has had on surrounding residences and businesses. Again, citing the Café Nell debacle, GNA hold very little value and virtually no legal authority.

I know that Mary DeVries has provided a detailed and thorough analysis of the proposal and suggested some other options for you to review. I would also add that although you find “D. City-designated scenic resources and historic resources are preserved (**not applicable**)”, this building is directly adjacent to an older building which houses a small restaurant and spa. Failing to require some preservation of the historic character of one of the oldest neighborhoods in the city should be considered. Further, I have additional questions:

- If the adjustment is granted, with the extensive remodeling of this building what LEED provisions are required
- What noise, smell, and pollution mitigations are included
- Since clearly this plan intends to create a “destination beer garden” that does not rely on neighborhood foot traffic, have you considered the impact additional car traffic will create? Public transportation is not a practical option since during the last year, the Thurman Tri-Met bus line has been cut dramatically and does not operate during evenings and weekends.
- The plan does not offer any replacement of trees—isn’t preserving our urban canopy important?

If the building owners are sincere in their commitment to developing a good neighbor relationship with the surrounding community, I suggest they hold a public meeting at Friendly House to discuss their plans and answer questions before you approve adjustments. This neighborhood has worked cooperatively with many developers and business owners over the years. It is why the community is a desirable and attractive place to live. If they want to be part of it, respecting and listening to our concerns is a good first step.

Sincerely,

Joni Marie Johnson

From: [Gayle Kvernland](#)
To: [Besley, David](#)
Subject: LU 22-159396 AD; NW 28th and Thurman
Date: Thursday, December 8, 2022 10:53:55 AM

Mr. Besley:

I am writing this email in opposition to the proposed development at NW 28th and Thurman. My property is adjacent to Peter Beninato's and Mary DeVries' and is located at 2817 NW Xavier Street. I have not done the extensive research into the law and codes as Mr. Beninato and Ms. DeVries have, but I echo their objections.

I have lived in my home for 28 years. Crackerjack's was at the 28th and Thurman location for most of that time I believe. The owner of Crackerjack's respected the neighborhood and it's people. The business was never noisy. The outdoor seating was quite limited and was partially obscured by fencing. The current proposal would not only open up the first floor outdoor seating to view from the street, the proposed modification would create additional noise due to the increase in seating and lack of sufficient buffer. Further, the addition of a second floor outdoor seating area and stadium seating would cause additional noise that would be amplified by the upper story location. The proposed idea of having music and entertainment on the second floor would be an additional nuisance. The current proposal would interfere with my ability to enjoy my deck and backyard due to the increase in noise. The statement by the architect that "adding a second floor with open space for outdoor seating to support the local neighborhood" is ridiculous.

Although I realize that the property is zoned for commercial use, the proposed plan for 9 different eating establishments designed for high volume turnover would increase the amount of traffic into the neighborhood. Crackerjack's attracted primarily a local clientele, however it is apparent the new proposal would be intended to attract people from out of the neighborhood thus creating additional vehicle traffic. I already tolerate the traffic associated with the annual Swift's pilgrimage to Chapman School which results in people parking their cars blocking my driveway. I foresee the same problem with the proposed changes at the property. Further the numerous delivery trucks that would be required to service 9 different food providers in the location would create additional noise and large vehicle traffic.

Very truly yours,

Gayle Kvernland

From: [Kehoe, Patrick](#)
To: [Besley, David](#)
Subject: LU 22-159396 AD
Date: Thursday, December 8, 2022 11:02:31 AM

Dear David:

I'm looking at the *REVISED Notice of a Type II Proposal* regarding the property on the corner of 28th and Thurman.

This is an ill-advised proposal. Most of the time when restaurants are in the middle of residential areas they tend to lean toward being a raucous intrusion of the residential neighborhood rather than a vibrant improvement in the character of that neighborhood. This is especially so when there is outdoor dining and multiple restaurants. Listing my objections would start with the noise of outdoor dining, including the noise of a crowd and the music of a party. The smells of a restaurant shouldn't be overlooked either. Not everyone wants to regularly smell the food preparation of food they may or may not like. We can't forget the smell of cigarettes either. I grew up with smoking parents and I never got used to it. Don't forget the increase in litter in the form of cigarette butts. (There will be more litter overall too.)

And try as we might, we haven't shed our need for automobiles just yet, so we shouldn't forget the lack of parking in the neighborhood. Patrons will block driveways, park in driveways, or take their half out of the middle of two spots. Everything bad about automobile will increase in the neighborhood.

It's fair to say most people are respectful of their neighbors wherever they are, but it's equally true that when alcohol is introduced the number of respectful people measurably declines. The time frame of the usual boisterous behaviors involving alcohol contributes to my objections. It's always in the evenings going well into the night. I think wrapping that time frame up with "into the foreseeable future" would paint it with the appropriate brush.

I'll add that the owner is a limited liability corporation with a nebulous name and a PO box for an address. I can't imagine any concern, complaint, request, or question being addressed with anything more than some content free statement meant to placate. But mostly I think they'll just be unreachable.

I think the addition of a regular big party in the vicinity will surely make for a less livable neighborhood.

Thank you
Patrick Kehoe

Sage



The information contained in this email transmission may constitute confidential information. If you are not the intended recipient, please take notice that reuse of the information is prohibited.

From: [James Thompson](#)
To: [Besley, David](#)
Cc: darlene@nwnw.org; planningchair@northwestdistrictassociation.org
Subject: case file number LU 22-159396 AD
Date: Thursday, December 8, 2022 12:35:42 PM

greetings:

i am writing to oppose granting an adjustment to the Portland Zoning Code for the above referenced case.

the applicant fails to show how the proposed adjustments are equal to or better at 'meeting the purpose of the regulation to be modified'. the reduction of the required minimum 10 foot building setback to 6 feet, the waiver of the building landscape buffer, the reduction of the loading space setback, and the waiver of the loading zone landscaping requirement appear to only benefit the applicant's desire to expand the footprint of the existing buildings, and would create noise and visual disturbances for the adjacent residential property and the surrounding neighborhood.

likewise, the applicant fails to show how the proposed adjustments and the resultant noise and visual disturbances, along with aesthetic impacts, would not 'significantly detract from the livability and appearance of the adjacent residential area'.

clearly, the materials submitted for citizen review are inadequate.

the drawings mistakenly label both streets fronting the site as 'nw 28th avenue'; fail to delineate the existing two separate buildings currently occupying the site and their relationship to the proposed plan; fail to clearly describe the intended use of the remodeled buildings, the proposed changes of use, or the resultant increase in noise levels, foot traffic, parking demands, and garbage collection; fail to describe proposed new exterior building materials, their acoustic properties, or their appearance; fail to describe the uses of or relationship between the added ground floor rooms, the second floor balcony, and other parts of the existing and/or new building, or why such uses could not be accommodated within the existing building footprint; fail to describe legitimate reasons for the new construction's encroachment into the setback required by the zoning code; fail to show how the visual, acoustic, and aesthetic impacts of the requested adjustments are 'mitigated to the extent practical', apparently by planters

significantly smaller than the landscape buffers required by the zoning code; and, fail to adequately describe how 'the cumulative effects of the adjustments result in a project consistent with the overall purpose of the zone' and the required setbacks and buffers between adjacent zones.

as a neighbor of the proposed development, i can speak to the livability and appearance of the adjacent neighborhood. current outdoor seating for nearby restaurants already creates undesirable noise and visual clutter, and impacts the walkability of public sidewalks. reducing the setback between the proposed development and adjacent buildings and squeezing a loading zone, storage area, outdoor stadium seating, and a second floor balcony into the existing 'alleyway' between the two existing masonry buildings will create many negative impacts for the adjacent neighborhood while only creating positive results for the developer and the proposed occupying businesses.

thank you for your consideration,

james thompson
2743 nw thurman street
suite 7
portland, oregon
97210-2252



Northwest District Association

December 8, 2022

David Besley
Bureau of Development Services
1900 SW 4th Avenue
Portland, Oregon 97201

RE: LU 22-159396 AD – 2788 NW Thurman St. Adjustment Review

The NWDA Planning Committee reviewed the Revised Notice of Type II Proposal submittal, dated Nov 17 2022, for the above referenced project on Dec 1 2022. We offer the following comments for your consideration.

Overall

- The NWDA strongly supports the general project concept, including the renovation and repurposing of the existing streetcar-era building.

Requested Adjustments

This proposal needs to comply with the following approval criteria:

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and*
- B. If in a residential, C11, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area;*

The subject property, and the location of the requested Adjustments, abuts a residential area directly to the south and adjacent to the west. The proposal includes outdoor seating areas for food service uses next to these residential areas on both the ground and upper levels. This arrangement has the potential of creating noise and operational conflicts that need to be addressed for the proposal to not *significantly detract from the livability of the adjacent residential area*.

Accordingly, the NWDA makes its support of the project conditioned on the provision of these measures:

1. Professional acoustic engineering review of all exterior mechanical equipment to assure acceptable operating noise levels, including the use of plantings for attenuation;
2. An executed Good Neighbor Agreement, negotiated in good faith by the applicant and the affected neighbors, to address any anticipated operational issues arising from the proposed uses and the location of exterior public seating areas.

Best Regards,
the Northwest District Association

Steve Pinger
member, Planning Committee

the Northwest District Association is a 501(c)(3) tax-exempt organization

2824 NW Thurman Street
Portland, OR 97210

December 7, 2022

City of Portland, Oregon
Bureau of Development Services
Attn: David Besley
1900 SW 4th Avenue, Ste 5000
Portland, OR 97201
David.Besley@portlandoregon.gov

Dear Mr. Besley,

I am writing in response to Case File Number LU 22-15993 AD. I submit the following comments for consideration in the review of the applicant's proposal:

Relevant Approval Criteria

- A) *Granting the adjustment will equally or better meet the purpose of the regulation to be modified. "The purpose of the setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air and the potential for privacy for adjacent residential zones". Additionally, "the minimum building setbacks along local service streets adjacent to residential zones work together with requirements for step downs in building height to ensure that there is a transition in street frontage characteristics to lower scale residential zones. In these situations, the building set back regulations promote street frontages with landscaping and residential uses to provide a transition and cohesive street environment with similar street frontage characteristics on both sides of the street with limited exterior display and storage to minimize impacts on nearby residentially zoned areas".*

With the above setback regulations, the applicant has not clearly demonstrated how they will equally or better meet the requirements in the design and information provided in the Type II Proposal Notice. Based on the architectural drawings, all the "back of house" functions – trash enclosure area, electrical, and loading area in addition to the second-floor patio and first floor staircase will encroach into the 10-foot required setback and, in some cases, a zero setback is proposed. Additionally, the applicant is asking for a waiver on the L3/L4 landscaping buffers required in the 10-foot setback, thereby eliminating any design elements to mitigate the impacts of the project on the surrounding residential neighborhood through visual screening and sound buffering measures. The landscaping proposed for the site is limited to planter boxes within the private spaces of the property with no outward public benefit, particularly to the South and West of the site. Applicant has not provided any evidence or reasoning as to why the setback cannot be achieved given current site conditions or that the requirement would unduly encumber the building from its intended use. It should also be noted that the drawings provided in the original notice mailed out did not adequately represent the full scale of the redevelopment of this property, with expansion into the building to the East and the addition of a second floor and outdoor patios. It was only upon request from residents and in working closely with City staff (Besley) that this information was provided in a supplemental notice.

- B) If in an OS, C, E, I or C12 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area.*

The site address and front door are currently oriented toward NW Thurman Street which is designated as a Neighborhood Collector. However, the two adjustments requested by the applicant are to be accommodated along NW 28th Street, a local service street, with residents directly to the South and West in an RMI zone. With the owner's intent to create an open-air environment that could potentially accommodate up to 175-200 patrons of the food hall with lower and upper patios along with trash and loading areas fully exposed to the street, neighbors in the immediate vicinity will not only have a full view of the business activity but be subject to any noise and odors generated from the day-to-day operations. If the zoning and required setbacks are intended to provide a transition between the commercial and residential uses, the adjustments requested seems to be at odds with that purpose, placing a significant amount of the operations, delivery, waste, dining, foot traffic etc. toward the Southwest corner of the site, thereby imposing the greatest burden on nearby residential neighbors. Outside of the CM1 and CM2 zones along NW Thurman Street ending at the corner of NW 28th, all surrounding zoning is residential – RM1, RM5, RM3, and R7. It should also be noted that in the "Willamette Flats" sounds echo in the valley and carry up into the hillside. Applicant has not provided any information in the notice that would indicate mitigation measures have been incorporated into the design to specifically address these issues.

- 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.*

While the subject site is designated CM2, it directly abuts an RM1 zone of low-scale single and multifamily dwellings. In such cases, City of Portland code requires a 10-foot setback to provide a buffer between the two uses. As the applicant is requesting two adjustments to within six feet and zero feet of the South property line, the adjustments should be denied unless measures to mitigate the encroachment and its impacts on the adjacent residential uses along NW 28th Avenue to the West and South are adequately addressed. The mandatory zoning setback also allows for sufficient fire, life, and safety access and separation between the commercial and residential uses. As an owner of RM1 property that directly abuts CM2 property that was granted setback adjustments of less than 10 feet when built, there is a significant amount of constant negotiation and communication regarding easement access, noise, trash storage, landscaping, odors, parking, stormwater drainage, etc. that has occurred over a 20-year period with a majority of the burden falling on the RM1 owner to manage as the CM2 owner does not live onsite 24/7. A minimum setback requirement of ten feet does not prohibit or place an undue burden on the applicant to operate the building as intended and therefore the full 10-foot setback can be achieved. See also response to Question B above.

- D) Not applicable.
- E) Any impacts resulting from the adjustment are mitigated to the extent practical.

Applicant has not provided enough information in the notice to fully evaluate the criteria. As proposed, there are no mitigation measures incorporated into the design to specifically address the negative impacts of the adjustments on the surrounding residential zones. Further, applicant has not provided any justifications as to why the setback can't be achieved given current site conditions and access. See responses to Questions A, B, and C above.

F) Not applicable.

In closing, the applicant has not indicated in their application why the minimum setback requirement of 10-feet cannot be achieved or if the adjustments were granted what mitigation measures would be incorporated into the design to meet the intent and purpose of the regulation and standards to create a buffer and transition between the commercial and residential zones.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lisa M. Selman", with a long horizontal flourish extending to the right.

Lisa M. Selman

From: [David Greenstein](#)
To: [Besley, David](#)
Subject: Proposed Zoning Adjustment / 28th & Thurman St Beer Garden
Date: Thursday, December 8, 2022 2:10:39 PM

Re:Proposed Zoning Adjustment / 28th & Thurman St Beer Garden

Attn. David Besley

As a 30yr resident of NW Portland I have seem much change but **large restaurant/ entertainment venues** have been primarily focused on 21st and 23rd avenues.

This planned development invites a honky tonk environment to a primarily quiet residential neighborhood, brining undesirable activities... trash, deliveries, along with outdoor patios on both the ground and second floor. There are insufficient contingencies provided for buffering this neighborhood from these additional activities **therefore this proposed zoning adjustment should be denied.**

Sincerely,

David Greenstein

2473 NW Pettygrove St.
Portland, Oregon 97210
Cell: 503.313.2248

David Besley
Case File Number: LU 22-159396 AD
Land Use Services
Bureau of Development Services
City of Portland, Oregon

December 8, 2022

Dear Mr. Besley,

I am writing regarding the proposed development by Nascent Collective LLC at 2788 NW Thurman St. I attended the NWDA Planning Meeting where the developer and architect presented the project and I've seen the proposed floor plans and site designs.

I have lived at the corner of NW 28th and NW Savier St. in the RM1 Zone since 2013. I have a direct view of the proposed development from my property, especially the rooftop deck and loading/delivery/garbage zone.

I share the concerns expressed in my neighbors' letters. The proposed development, with two setback reduction requests, detracts from the small scale and quiet character of our block, which is primarily residential and a safe pedestrian route to Chapman Elementary school.

I'm hopeful the developer can reconsider the design to enhance rather than detract from this peaceful residential block.

Sincerely,

Olivia Horgan
2804 NW Savier St.
Portland, OR 97210



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

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portland.gov/bds

July 28, 2022

Joseph Zody
ZODY ARCHITECTURE LLC
4004 SE Francis St
Portland, OR 97202

Re: Land Use Review LU 22-159396 AD

Dear Joseph Zody:

The Bureau of Development Services received your application for an Adjustment located at 2788 NW THURMAN ST on July 1, 2022. Your case has been assigned to me, David Besley. In order to continue to review your application, additional information is needed. Once you submit this information, your application will be considered complete, and I will proceed with a full review of your proposal. Up to this point, your application has been reviewed only to determine if all required information has been submitted. The application has not been fully reviewed to determine if it meets the relevant approval criteria, however some issues you may want to consider are identified in Section II below.

I. Information Necessary to Complete Application

The following information must be submitted before your proposal can be evaluated:

1. The curb cut will need to be narrowed so it is only in front of the loading space. Please revise the site plans accordingly.
2. Please provide a detailed planting plan showing plants that will fit in the available space. Because you are requesting an Adjustment to reduce minimal landscape standards that include trees, you should aim to maximize the planting of trees in the planter areas shown on site. The suggested plant lists for required landscaping can be found starting on page 40 of the following link:
https://www.portland.gov/sites/default/files/2020/lu_landscp_manual_030917_0.pdf
 - a. Please also provide information about proposed irrigation/maintenance of these landscape planters.
3. Because the valuation of the proposal would exceed the \$1,000,000 threshold, nonconforming upgrades (NCUs) would be required. Loading spaces are considered exterior development and therefore subject to nonconforming landscaping upgrades (per Section 33.258.070.D.2.b.1). Loading spaces require setbacks and perimeter landscaping as follows:

Table 266-8		
Minimum Loading Area Setbacks And Perimeter Landscaping		
Location	All zones except EG2 and IG2	EG2, IG2
Lot line abutting street	5 ft. / L2 or 10 ft. / L1	10 ft. / L2 or 15 ft. / L1
Lot line abutting a C, E, I, or CI zone lot line	5 ft. / L2 or 10 ft. / L1	10 ft. / L2 or 10 ft. / L1
Lot line abutting an OS zone lot line	5 ft. / L3	10 ft. / L3
Lot line abutting an R or IR zone lot line	5 ft. / L4	10 ft. / L4

Development not complying with this standard must be brought into conformance or receive an Adjustment. Given the location of the loading space, you will need to add two Adjustments to the reduce the street and residential-abutting setbacks and perimeter landscaping to 0 feet for continued use of a loading space (per Section 33.266.310, Table 266-8) and submit an additional Land Use Service fee and revised application materials including site plan and narrative) or, alternatively, you will need to remove the loading space, or work within a project valuation of less than \$1,000,000.

Applications for additional reviews will not be accepted unless accompanied by the required fees (\$3,749 for each additional BDS LUS Adjustment. In this case, two additional Adjustments would be necessary: one for the lot line abutting the street and for the lot line abutting an R zone lot line). Please note that failure to submit the needed application with the required fee may result in a denial of your proposal.

II. Time to Complete Application

The Portland Zoning Code allows you up to 180 days to complete your application. Since the 180-day period began on the day we received the application, the deadline to make your application complete is **Wednesday December 28, 2022**.

III. Determination of a Complete Application

The application will be determined complete when you have submitted:

1. All of the requested information included in Section I, above. If you cannot provide all of the requested information at one time and intend to submit additional information, please include a written statement with each separate submittal indicating that you still intend to provide the additional missing information by the **Wednesday December 28, 2022** deadline, **or**
2. Some of the requested information included in Section I, above, and a written statement that no additional information will be provided; **or**
3. A written statement that none of the requested information included in Section I, above, will be provided.

Please be aware that not submitting the requested information may result in your application being denied. The information is needed to demonstrate the approval criteria are met. Once the application is deemed complete, review of your application can proceed using the information you have provided.

Your application will be approved if it meets the relevant land use review approval criteria. It is your responsibility to document how the approval criteria are met. The items listed above will help provide that documentation.

Voiding of Application

If your application is not complete by **Wednesday December 28, 2022**, it will be voided, and the application fee will not be refunded. The City's land use review procedures are outlined in Chapter 33.730 of the Portland Zoning Code.

Please contact me if you have any questions about this letter. My telephone number is **503-865-6715**, and my e-mail address is David.Besley@portlandoregon.gov. Requested information noted above should be emailed to me. Please e-mail me for file dropbox instructions if document or drawing file sizes are greater than 5MB. Please label all correspondence and materials you submit with the case number LU 22-159396.

Sincerely,

David Besley, Planner
Land Use Services Division

cc: Application Case File



City of Portland
Bureau of Development Services
Land Use Services Division

1900 SW Fourth Avenue, Suite 5000
Portland, Oregon 97201
Telephone: 503-823-7300
TDD: 503-823-6868
FAX: 503-823-5630
www.portlandonline.com/bds

Request for Extension of 120-Day Review Period

State law requires the City to issue a final decision on land use reviews within 120 days of receiving a complete application. State law also allows the applicant to request in writing an extension of the 120-day review period for up to an additional 245 days. When extensions are requested, it is important to ensure that there is adequate time to accommodate the required public review, drafting the decision, and any required hearings (including appeals) within the extended review period. Generally, a final decision must be rendered approximately 60 days prior to the end of the review period in order to accommodate appeals.

If requesting an extension of the 120-day review period, please sign this form and return it to the Bureau of Development Services (BDS) planner assigned to your case.

Case Information

1. Applicant Name: Philip Sydnor
2. Land Use Case Number: LU # 2022-159396-000-00-LU
3. BDS Planner Name: David Besley

Extension Request

Please check one of the following:

- ☐ Extend the 120-day review period for an additional _____ (insert number) days.
- ☒ Maximum allowed extension: 245 days

The total number of extensions requested cannot exceed 245 days.

By signing this form, I acknowledge that the 120-day review period for my land use review application will be extended for the number of days specified.

Applicant Signature: 

Date 01.02.23

**City of Portland, Oregon - Bureau of Development Services**

1900 SW Fourth Avenue • Portland, Oregon 97201 | 503-823-7300 | www.portlandoregon.gov/bds

**Type II and IIX Decision Appeal Form** LU Number: 22-159396 AD**FOR INTAKE, STAFF USE ONLY**

Date/Time Received 3/16/23 @11am ☒ Action Attached Decision

Received By Mary Butenschoen Fee Amount \$250

Appeal Deadline Date 3/17/23 @4:30pm ☐ Y ☒ N Fee Waived

☐ Entered in Appeal Log Bill # 5117816

☐ Notice to Dev. Review Neighborhood Northwest District

APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS 2788 28th Ave DEADLINE OF APPEAL 3/17/2023

Name Neighbors listed on attachment "B"

Address See attachment "B" City State/Zip Code

Day Phone See attachment "B" Email See attachment "B" Fax

Interest in proposal (applicant, neighbor, etc.) Neighbors

Identify the specific approval criteria at the source of the appeal

Zoning Code Section 33. 805 . 040 Zoning Code Section 33. 266 . 310

Zoning Code Section 33. 130 . 215 Zoning Code Section 33. 420 . 010

Describe how the proposal does or does not meet the specific approval criteria identified above or how the City erred procedurally:

See Attachment "A"

Appellant's Name See attachment "B" Signatures in attach "B" ☒

I acknowledge this typed name as my signature

FILE THE APPEAL - Submit the following:

- ☒ This completed appeal form
- ☒ A copy of the Type II or IIX Decision being appealed
- ☐ An appeal fee as follows:
 - ☐ \$250, payable to City of Portland
 - ☐ No appeal fee is charged when appeal is filed by Civic Life recognized organizations for properties within organization's boundaries
 - ☐ Fee waiver request letter for low income individual is signed and attached
 - ☐ Fee waiver request letter for Unincorporated Multnomah County recognized organizations is signed and attached

Email this application and supporting documents to: LandUseIntake@portlandoregon.gov

To file the appeal, this completed application form and any supporting documentation must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of the Decision. To be valid, the City must receive the appeal by 4:30 p.m. on the deadline listed in the Decision. Once the completed appeal application form is received, a Land Use Services Technician will contact you with instructions on how to pay the fee.

A public hearing on the appeal will be held. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

Type II and IIX Appeal Procedure

For land use review applications that follow a Type II and IIX procedure, the Bureau of Development Services makes the decision on the application. This decision is called the Administrative Decision and may be appealed. The applicant and/or an interested person who does not agree with the Administrative Decision may appeal it by using the Type II and IIX Decision Appeal Form and submitting an appeal fee. No appeal fee is charged for Type II and IIX appeals when filed by a Civic Life recognized organization; the appeal must be for property located within the organization's boundaries, and the vote to appeal must be in accordance with the organization's bylaws. An appeal of a decision triggers an initial hearing before a City review body.

There is a 14-day appeal period that starts the day that the decision is mailed. The last day to appeal is stated in the decision. If appealed, a specific review body hears the case and makes the final City decision. These review bodies include:

- The Hearings Officer
- The Design Commission
- The Portland Historic Landmarks Commission
- The Adjustment Committee

Type II and IIX Appeal Hearing

When a decision is appealed, the Bureau of Development Services schedules a public hearing and sends out a notice within five days of receiving the appeal. The hearing is held at least 21 days from the mailing of the notice.

At the hearing, everyone attending is allowed to speak to the review body. The testimony must address whether or not the proposal meets the approval criteria as described in the Administrative Decision or how the City erred procedurally. Written testimony is also accepted prior to or at the hearing. This may include additional information submitted by the applicant and/or appellant.

If a committee reviews the appeal, a decision is made at the hearing. If the Hearings Officer is the review body, they may make a decision at the hearing, or make a decision later. Both the Hearings Officer and the committee must make a written decision and send notice of the decision within 17 days after the hearing. The decision is mailed to the appellant, applicant, and to anyone who submits oral or written testimony at the hearing.

The review body may adopt, modify, or overturn the Administrative Decision based on the information presented at the hearing and in the case record.

Appeal Fees

An appeal of a land use decision must include an appeal fee. There is a \$250 fee charged for appealing a Type II and IIX decision. This fee is refunded if the decision-maker grants the appeal; i.e. agrees with the appellant.

In order for an appeal to be valid, an appeal fee must accompany the appeal form or a fee waiver request must be approved before the appeal deadline as stated in the specific land use decision (Section 33.730.020 of the Portland Zoning Code). See below for fee waiver eligibility information.

Low Income Fee Waiver

The appeal fee may be waived for low income applicants who appeal a land use decision on the site of their primary residence in which they have an ownership interest. In addition, the appeal fee may be waived for low income individuals who have resided for at least 60 days within the required notification area for the land use review. Low income individuals requesting a fee waiver will be required to certify their annual gross income and household size. The appeal fee will only be waived for households with a gross annual income of less than 50 percent of the area median income as established and adjusted for household size by the federal Department of Housing and Urban Development (HUD). All financial information submitted to request a fee waiver is confidential. Fee waiver requests must be approved prior to appeal deadline to be considered for a fee waiver.

Information is subject to change

Attachment "A" Appeal of Adjustments at 2788 NW Thurman St

The adjustments requested by the applicant do not equally or better meet the purpose of any of the zoning regulations to be modified. Alternative design solutions are available which would accommodate the project without requiring adjustments to the planning code.

ZONING CODE SECTION 33.130.215: Setbacks

(Per Notice of Decision Attached)

Setback Adjustment

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, and add ground level and second floor patios connected via an external stairway, which requires an Adjustment to reduce the minimum 10-foot building setback to 6 feet (for commercial lots abutting residential lots) along the south lot line, and to waive the L3 landscaping buffer.

The above description assumes that the proposed design is the only option for accommodating the applicants desire to provide outdoor dining on the site. Yet there is ample opportunity to locate 2nd story dining above the existing building facing the Northwest corner and the North/east property line shared with commercial uses while protecting the privacy and maintaining light and air for the adjacent residences.

The purpose statement found below is NOT MET equally or better than by the proposed development:

33.130.215 Setbacks

The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial/mixed use zones. The setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air, and the potential for privacy for adjacent residential zones.

- The design of the proposed project is in direct conflict with the purpose of this setback requirement as stated: "The setback requirements for areas that abut residential zones promote development that will maintain light, air and the potential for privacy for adjacent residential zones." The adjacent building has sleeping areas and decks at the 2nd floor which will be subject to noise of outdoor dining, evening lights and potential music with or without amplification from 7 am until 10 pm daily.
- Reconfiguring these functions toward the more intense uses along the north and east property lines would greatly reduce the impact of these elements, however, the applicant has declined another approach which could accommodate their building program while protecting the residential zoned property to the south. Furthermore, no quantifiable measures have been taken to mitigate the impacts on the neighbors of the intense uses proposed in the open space – quite the opposite is proposed by introducing large areas for gathering outdoors.
- The wall screening the electric meters should be unnecessary if the meters and trash areas would be reconfigured within the south portion of the building currently showing a large storage room. The proposal does not meet or exceed the purpose of the code.
- At the second level "lower rooftop deck," the building addition is cantilevered over the trash area and electrical meter area and is uniformly 6 feet from the south lot line. This cantilever within the required setback should similarly be held to the minimum required 10 ft setback from the south property line, reducing the exterior seating area and pulling it further off of the wall of the residences to the south. Adjusting this requirement does NOT equally or better meet the purpose of the required setback.

(Per Notice of Decision attached):

The residential building adjacent to the project to the south (Trolleycar Lofts) includes a solid brick wall at its north façade. The northern facade of Trolleycar Lofts is located zero feet from the shared lot line with the subject site. While there are no doors or windows along its northern edge, the 6 units within have partial roof patios. The second level patio of the proposed commercial development includes a smaller patio that is closest to the residential zone, which has a finished surface elevation about 10 feet beneath the top of Trolleycar Loft's parapet, and a larger second level patio which is set back 24 feet from the residential property line and has a finished surface elevation that is 8 feet lower than the top of the parapet (see Exhibit A.2, page 4). Because the second level patios are significantly lower than the Trolleycar Lofts parapet, privacy to the residents of Trolleycar Lofts will be promoted.

- **The above description mischaracterizes the configuration of the Trolleycar Lofts. In addition to the roof decks on the Loft building there are sleeping areas in each of the 6 units abutting these decks, and while the wall on the property line is solid, these upper level bedrooms have required operational skylights and windows and doors opening to the decks on this level. As noted above, these rooms and decks will be severely compromised by the proposed configuration of the project. As noted by the planner, the southeastern section of the addition, where outdoor seating is shown, is proposed to be within 6 feet of the existing residences to the south. The location of the outdoor seating within 6 feet is NOT EQUAL TO OR BETTER for the adjacent homeowners than the required setback.**

ZONING CODE SECTION 33.266.310: Loading Space Adjustment:**(Per Notice of Decision attached):**

A second Adjustment is requested to reduce the residential-abutting setbacks for a loading space from 5 feet (landscaped to the L4 standard) to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street. The relevant purpose statements and associated findings are found below:

33.805.040 Adjustment 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.

Criteria "A." has NOT been met**A. Granting the Adjustment will NOT equally or better meet the purpose of the regulation to be modified****33.266.310 Loading Standards**

The following code section citing the purpose of the regulation related to the requested adjustment is omitted in the decision notice attached:

33.266.130 Development Standards for All Other Development (Parking, Loading, And Transportation & Parking Demand Management.

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

- **The loading/parking area layout standards are intended to promote safe circulation within the parking area, improve and soften the appearance and reduce the visual impact from sidewalks, streets and especially from adjacent residential zones. Vehicles parked in the loading zone as proposed will have no visibility of pedestrians approaching from the south, and similarly pedestrians will have no warning of vehicles pulling out. The loading area should provide a 5 ft setback from the curb and a 5 ft setback from the adjacent property line and building for safety and aesthetic reasons.**

- Relocating the required landscaping to the north of the loading/parking area may improve the impact from within the site it WILL NOT improve the impact from the sidewalk.

Granting the adjustment DOES NOT better or equally meet the purpose of either of 2 the setbacks required by the planning code.

ZONING CODE SECTION 33.805.040: Adjustment approval criteria

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;

- Multiple adjustments including placement and reduction of landscaping, reduced building setbacks that accommodate utilities and placement of a loading dock in an required setback would facilitate larger outdoor patios at grade. These patios can accommodate large gatherings in and immediately abutting an area of that is primarily low scale residential use. As proposed the project does NOT complement the scale or the intensity of use of the surrounding residentially zoned areas.
- The proposed loading area is unsightly and too close to the sidewalk for pedestrian safety. It is impractical for the active use described and further reduces access to the trash. Should deliveries occur at the same time as trash collection there will be a conflict which may ensue in longer idling times for garbage trucks and potential traffic buildup at the intersection and beyond.

(Per Notice of Decision attached):

The character statement for the CM2 zone is:

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

- As noted above, the cumulative effect of the Adjustments will result in a project which is NOT CONSISTENT with the overall purpose of the zone. The proposed development IS NOT pedestrian oriented, DOES NOT provide a strong relationship between buildings and sidewalks and DOES NOT enhance or complement the scale of the surrounding residentially zoned areas.

Therefore the proposal is NOT consistent with the character statement for the CM2 zone.

PLANNING CODE SECTION 33.420.010: Design Overlay Zone

(Per Notice of Decision attached):

The site is in the Design overlay zone, the purpose for which is in Zoning Code Section 33.420.010:

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;
- Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.

- The proposed addition is not described other than in volumes. Neither complete floor plans, materials or details are included in the submittal, so it is unclear whether the design is appropriate on the context of the site, the neighborhood or whether it will integrate aesthetically with the existing building.
- Fostering social interaction and inclusivity is highly subjective. Engaging with diners through a window, or being disturbed by large outdoor gatherings of people eating and drinking in earshot of private homes will not foster harmonious interactions in the neighborhood. The concept has been tested with extremely poor results at other dining establishments that have expanded their outdoor areas in the neighborhood, only leading to a suit between neighbors in spite of a good neighbor agreement. No amount of landscaping will mitigate the impact of large gatherings on the neighboring homes.
- Multiple tenants and a property owner who is not on-site will further reduce real time control of the activity and noise generated by the vendors and customers. Unhappy neighbors are unlikely to support the businesses which will present challenges to the successful operation and retention of tenants, and ultimately the viability of this development.

Northwest Plan District

(Per Notice of Decision attached):

The Northwest plan district implements the Northwest District Plan, providing for an urban level of mixed-use development including commercial, office, housing, and employment. Objectives of the plan district include strengthening the area's role as a commercial and residential center. The regulations of this chapter:

- *Promote housing and mixed-use development;*
- *Address the area's parking scarcity while discouraging auto-oriented developments;*
- *Enhance the pedestrian experience;*
- *Encourage a mixed-use environment, with transit supportive levels of development and a concentration of commercial uses, along main streets and the streetcar alignment; and*
- *Minimize conflicts between the mixed-uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary*

The proposed commercial development fails to meet to the regulations of the Northwest Plan district noted above:

- It does not promote housing or mixed use.
- It will attract diners traveling from outside the area who will drive to the neighborhood and compete for limited parking.
- It does not enhance the pedestrian experience on Thurman St, and the interface at 28th is adding unwelcome noise, smells and overflow diners onto the sidewalk on an otherwise quiet residential

Therefore the proposed development is found to be in conflict with the purpose statements of both the Design Overlay and the Northwest Plan districts.

Type II Decision Appeal LU-22-159396 AD Attachment "B"

Barbara Brown	atenisnt@comcast.net	2829 NW Upshur St. Portland, OR 97210	(503)3121446
Elliot Levin	levinelliot@gmail.com	1704 NW 28th Ave. Portland, OR 97210	(503)380-1231
Lisa Taaffe	lisataaffe@gmail.com	1704 NW 28th Ave. Portland, OR 97210	(713)521-1579
David Greenstein	david@therebargroup.com	2473 NW Pettygrove St Portland OR 97210	(503)922-3554
Shelley Jordon	sjordon@oregonstate.edu	2473 NW Pettygrove St Portland OR 97210	(503)922-3554
Rebecca Cohn	rebeccacohn30@gmail.com	2555 NW Savier St. Portland, OR 97210	(503)939-5341
Susan Stragnell	stragnell@msn.com	2555 NW Savier St. Portland, OR 97210	(503)274-0106
James Thompson	james@jetwoodshop.com	2743 NW Thurman St. Portland, OR 97210	(503)331-7109
Deanna Ford	deanna2759@icloud.com	2761 NW Savier St. Portland, OR 97210	(503)349-8138
John Utz	johnhenryutz@gmail.com	2761 NW Savier St. Portland, OR 97210	(503)680-5395
Lynn Goldstein	nemesis368@gmail.com	2761 NW Savier St. Portland, OR 97210	(503)291-1161
Mary DeVries	marydevries1@gmail.com	2803 NW Savier St. Portland, OR 97210	(415)307-6122
Gayle Kvernland	gaylek@teleport.com	2817 NW Savier St. Portland, OR 97210	(503)274-9566
Reinier Warschauer	reinierpdx@gmail.com	2856 NW Thurman St. Portland, OR 97210	(503)351-6915
Stacey Vallas	stacey.vallas@gmail.com	2856 NW Thurman St. Portland, OR 97210	(503)525-2801
Joni Marie Johnson	jmujohnson@yahoo.com	2864 NW Thurman St. Portland, OR 97210	(503)481-2587
Linda Walton	wananling@gmail.com	2865 NW Raleigh St. Portland, OR 97210	(503)288-2880
Anne Harris	bellharris1@gmail.com	2847 NW Savier St. Portland, OR 97210	(801)815-2286
Marceline Gearry	marcelineg@gmail.com	2884 NW Savier St. Portland, OR 97210	(503)223-4366

DocuSigned by:

Elliot Levin

DocuSigned by:

Lisa Taaffe

DocuSigned by:

David Greenstein

DocuSigned by:

Shelley Jordon

DocuSigned by:

Rebecca Cohn

DocuSigned by:

Susan Stragnell

DocuSigned by:

Deanna Ford

DocuSigned by:

John Utz

DocuSigned by:

Lynn Goldstein

DocuSigned by:

Mary DeVries

DocuSigned by:

Gayle Kvernland

DocuSigned by:

Reinier Warschauer

DocuSigned by:

Stacey Vallas

DocuSigned by:

Joni Marie Johnson

DocuSigned by:

Linda Walton

DocuSigned by:

Anne Harris

DocuSigned by:

Marceline Gearry

DocuSigned by:

Marceline Gearry

Jim McAdoo	quidam8@yahoo.com	2781 NW Savier St. Portland, OR 97210	(503)226-9604
Marylou McAdoo	mlouor@yahoo.com	2781 NW Savier St. Portland, OR 97210	(503)226-9604
Regna Merritt	merrittregna@gmail.com	2826 NW Thurman St. Portland, OR 97210	(503)225-9325
JoAnn Utz	joutz10@gmail.com	2761 NW Savier St, Portland, OR 97210	(503)680-5395
Greg Simon	studiopdx@gmail.com	2847 NW Savier St. Portland, OR 97210	(801)815-2286
Martin Davidson	gsdetails@gmail.com	2756 NW Raleigh St. Portland, OR 97210	(503)313-8556
Glenn Ford	glenn@ircalum.com	2761 NW Savier St. Portland, OR 97210	(503)349-8138
Doug Boyd	dougduckboyd@yahoo.com	2777 NW Savier St. Portland, OR 97210	(503)780-8777
Bob Clay	bclayplanner@gmail.com	2623 NW Savier St. Portland, OR 97210	(503)314-9382

DocuSigned by:

Regna Merritt

DocuSigned by:

JoAnn Utz

7A23A6057C2E48F...

DocuSigned by:

Martin Davidson

DocuSigned by:

Glenn Ford

C9EB8DB46E4347F...

DocuSigned by:

Bob Clay

FF21D1391CB149F...



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

Carmen Rubio, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7310
TTY: (503) 823-6868
www.portland.gov/bds

Date: March 3, 2023
To: Interested Person
From: David Besley, Land Use Services
503-865-6715 / David.Besley@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 22-159396 AD

GENERAL INFORMATION

Applicant: Philip Sydnor
Integrate Architecture & Planning
1919 N Kilpatrick
Portland, OR 97217
Phone: 503.312.2561
Email: phil@integratearch.com

Owner Rep: Erik Opsahl
Savier Development
2724 NW Savier St
Portland, OR 97210

Owner: Nascent Collective Llc
Po Box 29107
Portland, OR 97296

Site Address: 2788 NW THURMAN ST

Legal Description: TL 8600 0.23 ACRES, SECTION 29 1N 1E
Tax Account No.: R941290220
State ID No.: 1N1E29DC 08600
Quarter Section: 2826

Neighborhood: Northwest District, contact Greg Theisen at planningchair@northwestdistrictassociation.org
Business District: None
District Coalition: Neighbors West/Northwest, contact Darlene Urban Garrett at darlene@nwnw.org

Plan District: Northwest

Zoning: CM2d (Commercial/Mixed Use 2 zone with Design “d” overlay zone)

Case Type: AD (Adjustment Review – 2 Concurrent Adjustments)

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space. For lot lines in the CM2 zone abutting residentially zoned sites, the Portland Zoning Code requires a minimum building setback of 10 feet and a landscape buffer to the L3 standard (Section 33.130.215.B, Table 130-2). The expansion at the southeast corner of the existing building is proposed to be located as close as 6 feet from the south lot line (at the second-floor patio and first floor staircase/trash enclosure area). An existing loading area along the southwestern corner of the site is proposed to remain and a 6-foot wide pedestrian access connection is proposed along the southern edge of the site to serve as access for the building and trash enclosure area; therefore, no landscaping is proposed in this area¹. The adjacent site to the south is residentially zoned (RM1 – Residential Multi-Dwelling 1); therefore, an Adjustment is requested to reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer.

While no loading spaces are required, the applicant is proposing to modify the existing 23-foot-11-inch wide loading area located along the southern edge of the site. It is proposed to be reduced to 10 feet wide (to be consistent with the “Standard B” loading space requirements), and the remaining 13 foot – 11 inch curb cut is proposed to be closed for use as additional on street parking.² The Portland Zoning Code requires that loading spaces abutting a Residential zone be set back a minimum of 5 feet and include perimeter landscaping to the L4 standard (per Section 33.266.310.E, Table 266-8). The loading space’s location is adjacent to a residentially zoned site (RM1 – Residential Multi-Dwelling 1) to the south. An additional requirement of this standard requires that loading spaces not be located between a building and the street. While the existing loading space is not proposed to expand or be relocated, the addition is proposed to be located as close as 6 feet from the southern property line and the loading space is proposed to be 10 feet wide; this would result in the northernmost 4 feet of the loading space being located between the building and NW 28th Avenue. An Adjustment is therefore requested to reduce the residential-abutting setbacks to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street.

Note: The applicant submitted a revised plan set which reduced the southernmost outdoor seating areas so they are not located within the minimum 10-foot building setback for abutting residential lots (to the south) and expanded the width of the landscape planters areas along these areas to 4 feet to allow additional landscape buffer area.

Relevant Approval Criteria:

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

¹ The applicant is proposing a 3-foot-2-inch wide x 24.5-foot long landscape planter at the ground level, a 2.5-foot wide x 19.5-foot long landscape planter area at the southern edge of the stairway, and a 4-foot wide x 29-foot long landscape planter at the southern edge of the second-floor patio. These landscape planters are proposed within the 10-foot landscape buffer area.

² While the loading space is legally existing, it is not meeting current landscaping requirements. Development not complying with development standards must be brought into conformance or receive an Adjustment. (Loading spaces are considered “exterior development” and therefore subject to nonconforming landscaping upgrades per Section 33.258.070.D.2.b.1).

ANALYSIS

Site and Vicinity: The 10,000 square foot site is located on the southeast corner of the intersection of NW Thurman Street and NW 28th Avenue. The relatively flat site is currently developed with a 7,213 square foot single-story commercial building (an out-of-business tavern). The surrounding vicinity is developed with a mix of commercial buildings and higher density residential buildings along NW Thurman Street to the east, ranging from 1-to-3-stories. Development to the south is primarily single- and multi-dwelling residential buildings ranging from 1-to-3-stories. Development about one block to the north consists primarily of higher density multi-dwelling residential buildings ranging from 2-to-4-stories. The adjacent sites to the north, east, and west of the subject site are also zoned Commercial/Mixed Use 2 with a Design (“d”) overlay zone. The adjacent site to the south is zoned Residential Multi-Dwelling 1 (RM1), and is developed with a single-story multi-dwelling residential building with a partial second floor.

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

The Design overlay zone (“d”) ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city’s evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;
- Contribute to a public realm that encourages social interaction and fosters inclusivity in people’s daily experience; and
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **November 17, 2022**. The following Bureaus have responded as follows:

- The Portland Bureau of Transportation (PBOT) responded with no concerns regarding the Adjustment review, included information about required right-of-way improvements, and noted that reducing the existing curb cut as proposed will add an additional on-street parking space and provide additional street tree plantings (Exhibit E.1);
- The Life Safety Review Section of the Bureau of Development Services (BDS) responded with no concerns regarding the Adjustment review, and noted that a separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances (Exhibit E.2);
- The Bureau of Environmental Services (BES) responded with no concerns regarding the Adjustment review and noted that a detailed stormwater management plan will be required during building permit review (Exhibit E.3); and
- The Fire Bureau responded with no concerns and noted that a separate building permit is required for this proposal (Exhibit E.4).

The following Bureaus have responded with no concerns (Exhibit E.5):

- The Site Development Review Section of BDS; and

- The Water Bureau.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 17, 2022. Thirty-seven written responses have been received from the Northwest District Association (NWDA, Exhibit F.25) and neighboring property owners/HOAs in response to the proposal. Six responses (including the NWDA) were written in support of the proposal (See the Exhibit section at the bottom of this Decision Letter for details). The NWDA supports the project conditioned on the provision of the following measures:

1. Professional acoustic engineering review of all exterior mechanical equipment to assure acceptable operating noise levels, including the use of plantings for attenuation; and
2. An executed Good Neighbor Agreement, negotiated in good faith by the applicant and the affected neighbors, to address any anticipated operational issues arising from the proposed uses and the location of exterior public seating areas.

The remaining 31 responses were written expressing concerns about the proposal, requesting additional information about the proposal, suggesting modifications to the proposal, and/or opposing the proposal. Many of the concerns expressed by neighbors were shared and are summarized below:

- Privacy:
 - The proposed second floor drinking/dining area would be too close to the residential neighbors to south (Trolleycafe Lofts) and west, and because it is elevated, there would be privacy issues (views and noise from customers using the second-floor patio to the residents to the south, who have roof decks and skylights).
- The proposed patios are oriented toward NW 28th Ave to the west and the residential lot to the south rather than NW Thurman St to the north. A preferred design would be patios should be oriented to Thurman because this is a commercial corridor and NW 28th is more residential.
- Noise impacts:
 - Customers of the proposed business;
 - Ventilation from the kitchens;
 - Amplified or live music;
 - Trash pick-up; and
 - Deliveries/loading zone activity.
- Odor impacts:
 - Trash area;
 - Cigarette smoke; and
 - Cooking smells.
- Off-site impacts (sidewalk and surrounding areas):
 - Cigarette smoke;
 - Noise/drunken customers;
 - Tables and chairs in the sidewalk/right-of-way;
 - Vagrancy/loitering; and
 - Rodents
- Visual impacts:
 - Light pollution;
 - Loading space; and
 - Garbage.
- There could be an increase in traffic congestion and less parking availability.
- The proposed landscape planters/shrubs would not provide adequate buffer/mitigation.
- The proposal does not equally or better meet the purpose of the regulations (per Adjustment Approval Criterion A).
- The proposal would detract from the “livability and appearance” of the residential neighborhood (per Adjustment Approval Criterion B).
- The proposal would negatively impact the neighborhood character and property values.
- The scale of the project is too large/intensive:

- Too many occupants will be using the patio space, with estimates of 175-200 people in this area;
 - There will be too many restaurants/bars.
- There are maintenance concerns for the north wall of adjacent Trolley Car Lofts residential development to the south of the building.
- Granting the Adjustment would allow a roof top beer garden adjacent to a Residentially-zoned site.
- There are questions about the proposal that have not been answered by the applicant:
 - What are the hours of operation?
 - How many businesses will there be?
 - What kinds of businesses will there be?
 - What is the occupancy?
 - Will alcohol be served?
 - Will there be amplified or live music/outdoor entertainment? What will the volume be?

Applicant Response:

The applicant provided a response to neighbor comments (Exhibit A.2), which is summarized as follows:

- The applicant acknowledges compliance with the two conditions required by the NWDA.
- The scale of the proposal is far below the allowable 45-foot height and Floor Area Ratio (2.5:1 FAR and up to 4:1 FAR with bonuses). The proposed height is about 35 feet and the proposed FAR is about 1.58:1. The partial second story of the building is proposed to be set back 32 to 36 feet from the southern property line, which significantly exceeds the minimum 10-foot building setback requirement.
- Restaurants and bars are allowed in this commercial zone by right.
- Outdoor seating is proposed on the north, west, and south sides of the building. The outdoor seating area would be accessed from both NW Thurman Street through the building as well as from NW 28th Avenue, thereby connecting the two pedestrian pathways. The occupancy number of 175-200 people that was stated in the original letter written by a neighbor assumed a standing only environment and was calculated using gross square feet and did account for actual conditions where there will be space taken by tables, chairs, planters, egress walkways, etc. We anticipate the actual real world maximum capacity to be between 90-135 occupants for both the north and south outdoor areas, but the actual maximum allowed capacity stated per code will be in line with Oregon Structural Specialty Code and Fire Marshall requirements.
- The property will abide by all City sound and noise codes/ordinances as stated in Chapter 18.10.010 Maximum Permissible Sound Levels
- Regarding neighbor concerns about potential noise created by the outdoor areas on the upper level, and the impact to the roof decks of the Trolley car Lofts, it should be noted that the second-level smaller patio that is closest to the residential zone at the southeast corner of the property is only 500 sq.ft. with a seating area set back 10 feet from the property line. The finished surface elevation of the patio is about 10 feet beneath the top of the residential building's parapet, and the larger second level patio is set back 24 feet from the residential property line and has a finished surface elevation that is 8 feet lower than the top of the residential building's parapet.
- The existing 24 foot wide x 89 foot – 6 inch long paved loading zone was officially permitted (permit #395581) as a loading area in 1962, but has existed on the property since it was originally built in 1914. It has remained an active loading area over the years for both the tavern and art studio uses.
- The adjustments requested will reduce the burden on residential neighbors by allowing the waste area and electrical utility equipment to be located as far back as possible from the sidewalk frontage along NW 28th Ave, while also retaining an onsite loading area for deliveries, keeping the delivery vehicle out of the street in the way of traffic. The redefining of the existing loading area will also reduce the existing curb cut from about 26 feet down to 10 feet, thereby creating an additional on street parking space. It will also allow for the Portland General Electric (PGE) electrical equipment to be hidden

from view and placed further off the sidewalk and into the site while still meeting PGE's requirement to have the equipment to be located within 25' of a local service street for servicing access.

- The outdoor use on the southern facing patios will be closed to customer use after 10:00pm and several signs are proposed at patio entrances that state: "South outdoor areas closed to customers after 10 PM."
- The loading zone space will be used for deliveries during normal business hours.
- At this time there are no tenants identified for the space. We expect to accommodate between 6 – 10 tenants, which could range from a food vendor to artist gallery space.
- We have no plans to have any amplified music at this time, but if things were to change any music would be in accordance with Chapter 18.10.010, Maximum Permissible Sound Levels for Land Use Zones, and any anticipated noises above these levels would be done through a noise variance permit.
- The project will meet all current State and local requirements and standards governing ventilation. The trash areas is anticipated to be serviced every day or every other day depending on the amount of use at that given time.
- While there have been picnic tables historically located in the right-of-way on both Thurman St and NW 28th Ave, there are no current plans to have tables and chairs in the right-of-way. If tenants choose to place tables and chairs in the right-of-way in the future it will be done in accordance with PBOT requirements.

Staff Response:

Staff notes that this Adjustment review is requested to adjust the following development standards:

1. To reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer; and
2. To reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street.

Concerns and comments relevant to the Adjustment requests and approval criteria are located in the *Zoning Code Approval Criteria* section below.

In response to comments related to traffic, congestion, and vehicle parking availability, staff notes that parking is not required in this location (due to the retail sales and service use proposed, the lot size, and transit availability, per Section 33.266.110.B.1.b and Table 266-1); these issues are therefore not relevant to the Adjustments requested.

In response to comments that this is a residential area and the use is overly intensive for this area, staff notes that the zoning of the site is Commercial/Mixed Use 2, which allows retail sales and service uses (including restaurants and bars) by right.

In response to the concerns about how the proposal does not meet Adjustment Approval Criterion B because it detracts from "livability" and "appearance" of the area, Staff notes the wording of this approval criterion:

*If in a residential, CII, 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;***

staff notes that *livability* and *appearance* only apply to this criterion when an Adjustment request is in a Residential zone. This site is in a Commercial zone, so only the second part of Criterion B applies (shown in bold). This criterion is discussed in the *Zoning Code Approval Criteria* section below.

In response to comments regarding some neighbor's building orientation preference toward NW Thurman Street (a more "commercial" street) instead of NW 28th Avenue (a more "residential" street), staff notes that the sites directly across both streets (to the north and west, respectively) are also zoned CM2d and therefore the proposal is oriented toward commercial

zoning to the west and north. The proposal includes a main entrance along the north façade, roof patio seating at the northwest corner of the building, and roof patio seating at the southern edge and southwestern corner of the building; the proposal does not have a single orientation. The only adjacent residentially-zoned site is the RM1 zoned site to the south.

In response to the assertion that approving the Adjustment request will allow a roof patio and seating within the setback, staff notes that the applicant submitted a revised plan set which increased the width of the landscape planter areas along the southernmost seating areas (lower courtyard, stadium seating, and lower rooftop deck) to 4 feet to allow for additional landscape buffer area and to eliminate customer seating areas within the minimum 10-foot building setback for abutting residential lots. (Exhibit C.2).

In response to concerns about there being tables and chairs in the sidewalk area, staff notes that this is not part of the Adjustment requests and, in order for a business to operate in the right-of-way (i.e. sidewalk), a Healthy Businesses Permit (through PBOT) must be reviewed and approved.

Off-site impacts (including noise, odor, and glare) are regulated under Zoning Code Section 33.262.

In response to concerns about potential damage to the neighboring residential building to the south, staff notes that damage to the north wall of neighboring residential building by the proposed business, or damage of any kind, is a civil issue between owners.

ZONING CODE APPROVAL CRITERIA

33.805.040 Adjustment 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 findings for the requested setback and loading space Adjustments are found below.

Setback Adjustment

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, and add ground level and second floor patios connected via an external stairway, which requires an Adjustment to reduce the minimum 10-foot building setback to 6 feet (for commercial lots abutting residential lots) along the south lot line, and to waive the L3 landscaping buffer.

The purpose statement (relevant sections in bold) and associated findings are found below:

33.130.215 Setbacks

The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial/mixed use zones. The setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air, and the potential for privacy for adjacent residential zones.

The front setback requirements for Civic Corridors in Eastern and Western pattern areas provide opportunities for additional pedestrian space and separation from the vehicle traffic along these major streets to create an environment for building users and pedestrians that is less impacted by close proximity to traffic, and provide opportunities for front landscaping reflective of the vegetated characteristics of these neighborhood pattern areas.

The minimum building setbacks along local service streets adjacent to residential zones work together with requirements for step downs in building height (33.130.210.B.2.b.) to ensure that there is a transition in street frontage characteristics to lower scale residential zones. In these situations, the building setback regulations promote street frontages with landscaping and residential uses to provide a transition and a cohesive street environment with similar street frontage characteristics on both sides of the street, and limit exterior display and storage to minimize impacts to nearby residentially-zoned areas.

At the ground level, the proposed building addition at the southeast corner of the site is set back 6 feet from the south lot line for a 6-inch length (partially enclosing and screening the electrical meter area), 8 feet from the south lot line for a 14-foot length (along the north edge of the electrical meter area) and 10 feet from the south lot line for a 34-foot length (at the back of the trash area) (as shown in Exhibit C.2). At the second level “lower rooftop deck,” the building addition is cantilevered over the trash area and electrical meter area and is uniformly 6 feet from the south lot line. A stairway and stadium seating are located to the west of this second level open patio. A ground level open patio (including a “lower courtyard” and “upper courtyard”) area is also proposed. Four-foot-wide planter boxes are proposed along the southern edges of the lower courtyard, stadium seating, and lower rooftop deck to provide a buffer between the customer area and the adjacent residential building. A 6-foot-wide access area (for trash pickup, electric meter access, and deliveries) is proposed along the southern edge of the site.

The residential building adjacent to the project to the south (Trolley car Lofts) includes a solid brick wall at its north façade. The northern facade of Trolley car Lofts is located zero feet from the shared lot line with the subject site. While there are no doors or windows along its northern edge, the 6 units within have partial roof patios. The second level patio of the proposed commercial development includes a smaller patio that is closest to the residential zone, which has a finished surface elevation about 10 feet beneath the top of Trolley car Loft’s parapet, and a larger second level patio which is set back 24 feet from the residential property line and has a finished surface elevation that is 8 feet lower than the top of the parapet (see Exhibit A.2, page 4). Because the second level patios are significantly lower than the Trolley car Lofts parapet, privacy to the residents of Trolley car Lofts will be promoted.

As noted in the *Proposal* section above, the applicant has revised their proposal to reduce the lower courtyard, stadium seating, and lower rooftop deck areas so they are no closer than 10 feet from the south lot line and to include 4-foot wide landscape planters with evergreen shrubs to form a screen 6 feet high. The wider landscaping area and reduced seating area will increase separation and provide additional privacy for Trolley car Lofts, and improve the overall site appearance.

While a full 10 feet of L3 landscape buffer is not proposed (due to access needs and design choices), one new small tree is proposed at the ground level and a 4-foot-wide landscape buffer (via planter boxes) will be provided along the southern edge of the lower courtyard, stadium seating, and lower rooftop deck areas. The planter height is proposed at 2 feet and, when combined with proposed 6-foot-tall shrubs, the vegetation will sit about 8 feet above the patios along the southern edge, where the building setback adjustment is requested. The proposed landscape includes evergreen shrubs to

provide year-round screening. Combined with the revised floorplans which do not provide customer seating within 10 feet of the southern lot line, the landscaping will further promote privacy and provide a transition to the neighboring residences to the south. It will also improve the appearance of the site by providing additional landscaping, as the current development has no landscaping. A condition of approval will require that the landscaped buffer areas along the southern edge of the seating areas (upper courtyard, lower courtyard, stadium seating, and lower rooftop deck) be continuously maintained in a healthy manner. Plants that die must be replaced in kind. A fine may be levied if the landscaping has not been maintained, and new plants required to be planted (to be consistent with Zoning Code Section 33.248.040 Landscaping and Screening Maintenance).

The proposed development is located to the north of the residential property thereby not compromising TrolleyCar Lofts' southern exposure and access to sunlight. Additionally, as noted above, the second level patio area has a finished surface elevation about 10 feet beneath the top of TrolleyCar Loft's parapet, thereby not compromising residential access to light.

As noted above, the southeastern section of the addition is proposed as close as 6 feet to the southern (residentially abutting) property line; however, about 50 feet of the 100-foot length of the southern façade is over 23 feet from the southern lot line, which is a substantial increase in distance over the 10-foot minimum building setback. The average southern façade setback is about 15 feet from the south lot line.

The setback purpose statement works together with the step-down building height requirements but, in this case, there is no step-down height required for the abutting residentially zoned lot line to the south. The maximum height of the structure, including the proposed partial second story addition is about 35-feet, which is about 22 percent lower than the maximum allowed 45-foot building height (Table 130-2). Furthermore, the southernmost 18 feet of the building, where the second level patio is proposed, is only about 14 feet in height. The partial second story addition is proposed to be set back 32 to 36 feet from the southern property line, a substantial distance beyond the minimum 10-foot building setback requirement. The proposed FAR is about 1.58:1 which is significantly lower than the maximum allowed FAR of 2.5:1 in this zone. The significantly reduced height and FAR results in an overall building scale reduction, which will help provide a transition to the adjacent TrolleyCar Lofts development and will also help maintain light and air for residents of this building.

The Fire Bureau has reviewed the request for reduced building setback and offered no concerns with regards to separation for fire protection, or access for firefighting.

Loading Space Adjustment

A second Adjustment is requested to reduce the residential-abutting setbacks for a loading space from 5 feet (landscaped to the L4 standard) to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street. The relevant purpose statements and associated findings are found below:

33.266.310 Loading Standards

A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way.

While the loading space is legally existing, loading spaces are considered “exterior development” and therefore subject to nonconforming landscaping upgrades³, which means that if upgrades cannot be provided to meet current Zoning Code standards (i.e. setback and landscaping requirements), approval through an Adjustment review is required. The existing approximately 24-foot-wide x 90-foot-long paved loading area along the southern edge of the site is proposed to be reduced to 18 feet x 10 feet. As noted above, PBOT responded with no concerns regarding the Adjustment review and noted that reducing the existing curb cut as proposed, from about 24 feet to 10 feet, will add an additional on-street parking space and provide additional street tree plantings (Exhibit E.1).

The northernmost 4 feet of the loading space is proposed to be located between the southernmost building addition and the street, which – when occupied by a loading vehicle – will obscure only about 4% of the 96-foot-wide western building facade. The loading space is located along the southern property line and is connected to the 6-foot access area proposed at the south edge of the site. If the loading area was located anywhere else on site, it would obscure more of the building façade. New landscaping planters are proposed along the entire north edge and 4-foot-long portion of the east edge of the loading space. These planters will include one new small tree and, as noted above, 6-foot-tall evergreen shrubs for year-round screening. Additional new landscape planters (described above) are proposed within the former 24-foot-wide x 90-foot-long paved loading area. These features will help improve the appearance of the loading area and overall site.

As conditioned, 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 subject site is in a Commercial zone. At this location, the City’s Transportation System Plan classifies NW 28th Avenue as a Local Service Street and NW Thurman Street as a Neighborhood Collector, Transit Access Street, and City Bikeway. PBOT has indicated no concerns regarding the proposal’s consistency with the classification of adjacent streets.

Desired character of area

“Desired character” is defined in Zoning Code Chapter 33.910:

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.*

Pursuant to this definition, the desired character of this site is determined by the character statement of the CM2 zone, the purpose statements of the Design Overlay Zone and the Northwest Plan District, the Portland Citywide Design Guidelines, and the [Northwest District Plan](#).

CM2 zone

The character statement for the CM2 zone is in Zoning Code Section 33.130.030.C:

The Commercial/Mixed Use 2 (CM2) zone is a medium-scale zone intended for sites in a variety of centers, along corridors, and in other mixed use areas that have

³ Because the project valuation exceeds \$1 Million, nonconforming upgrades are required for this project.

frequent transit service. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to four stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, provide a strong relationship between buildings and sidewalks, and complement the scale of surrounding residentially zoned areas.

The Adjustment requests are to reduce the building and loading area setbacks and landscaping requirements along a residential-abutting lot line and to allow a portion of the loading area to be between the building addition and the street. As noted above, the addition proposed within the setback is a single-story addition with a roof patio which sits about 10 feet below Trolley car Loft's parapet, and landscape screening via planter boxes along the southern edge of the patio. The proposal includes only a partial second-story addition, which will be well under the maximum four stories, and will therefore complement the scale of surrounding residentially zoned areas. The paved and legally existing loading area along the southern edge of the site is proposed to be significantly reduced/narrowed, which will add an additional on-street parking space.

The proposed additions, patios, and loading area will be consistent with the CM2 zone's intentions of providing commercial uses with limited off-site impacts in an area with transit service (Including TriMet bus Line 26 along Northwest Thurman). The pedestrian-oriented development will be supportive of transit.

For these reasons, staff finds the proposal is consistent with the character statement for the CM2 zone.

Design Overlay Zone

The site is in the Design overlay zone, the purpose for which is in Zoning Code Section 33.420.010:

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- *Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;*
- *Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and*
- *Promotes quality and long-term resilience in the face of changing demographics, climate and economy.*

Rather than demolishing the existing commercial building, the applicant is proposing a renovation which will include 9 new, full-story ground floor windows along the north and west facades (currently windowless), new outdoor patios (including roof patios), and a partial second story. The new windows, as well as the proposed restaurants, indoor seating, and outdoor patio seating will encourage social interaction and foster inclusivity in people's daily experience and allow for year-round use regardless of the climate. While the 10-foot minimum building setback is proposed to be reduced to 6 feet, the applicant is providing a 10-foot distance (4 feet of which must be landscaped as described above) between the outdoor patio seating areas and the neighboring residential building to the south in order to build on the unique context of this site: a commercially zoned corner lot with an existing commercial building adjacent to residential zoning/development to the south.

Trash, delivery, and electric utility access are proposed at the southeast corner of the site where these areas will remain out of public view and away from the street facing façades. Unlike typical brick and mortar restaurants, the applicant is proposing 6 – 10 tenants, which could range from food vendors to artist gallery spaces (as noted in Exhibit A.2). By allowing multiple tenants with a range of retail sales and service uses, the commercial building should have flexibility for changing tenants and smaller scale restaurants and will therefore promote long-term resilience in the face of changing demographics and economy.

For these reasons, staff finds the proposal is consistent with the purpose statement for the Design overlay zone.

Northwest Plan District

The Northwest Plan District purpose statement can be found in Zoning Code Section 33.562.010:

The Northwest plan district implements the Northwest District Plan, providing for an urban level of mixed-use development including commercial, office, housing, and employment. Objectives of the plan district include strengthening the area's role as a commercial and residential center. The regulations of this chapter:

- *Promote housing and mixed-use development;*
- *Address the area's parking scarcity while discouraging auto-oriented developments;*
- *Enhance the pedestrian experience;*
- *Encourage a mixed-use environment, with transit supportive levels of development and a concentration of commercial uses, along main streets and the streetcar alignment; and*
- *Minimize conflicts between the mixed-uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary*

The proposed commercial development will achieve the Northwest Plan's objective of creating an urban level of mixed-use development. Along the north edge of the site, NW Thurman Street is classified as a "main street" (Portland Zoning Code per Map 562-7). The proposed renovation and additions will support a mix of different retail sales and service uses on a site with transit access and will therefore encourage transit supportive levels of development and a concentration of commercial uses along a main street. The proposal will also help strengthen the area's role as a commercial and residential center by providing additional commercial uses in an area with existing low, medium, and higher-density residential development. The proposed commercial building additions and renovations will enhance the pedestrian experience by including multiple retail sales and service options in a single building and providing outdoor patios.

As noted above, parking is not required for the proposal or relevant to the Adjustment request. No conflicts are anticipated between the mixed uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary.

For these reasons, staff finds the proposal is consistent with the purpose statement for the Northwest Plan District.

Portland Citywide Design Guidelines

The Portland Citywide Design Guidelines consist of a set of guidelines for design cases in community planning areas outside of the Central City. The Portland Community Design Guidelines focus on three tenets: **Context**, balancing the aspirations of the future desired character with today's setting; **Public Realm**, strengthening a building and site's relationship with the public rights-of-way and open spaces; and **Quality and**

Resilience, underscoring holistic site and building designs that benefit people and climate.

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

02: Create positive relationships with surroundings.

Possible design approaches may include, but are not limited to:

- *Building Massing – Developing effective placement and proportion of building massing toward adjacent lower-scale development and residential uses; and*
- *Street Wall – Maintaining a vibrant street wall with continuous storefronts along historic main streets.*

03: Integrate and enhance on-site features and opportunities to contribute to a location's uniqueness.

Possible design approaches may include, but are not limited to:

- *On-site older buildings and historic resources – retaining existing older buildings and historic resources; and*
- *Social and cultural significance – Incorporating a site's significant cultural or social history*

As noted above, the southeastern section of the addition is proposed as close as 6 feet to the southern property line; however, about half of the southern façade is much farther away, which helps offset the building's overall massing. The height of the proposed building (ranging from 14 to 35 feet) is 10 feet lower than the 45-foot height limit. The patio closest to the southern lot line sits about 10 feet lower than the top of Trolleycar Loft's parapet. The reduced massing and height and the step-down building design from north to south help provide a transition to the adjacent multi-dwelling development to the south.

As noted above, the applicant is proposing renovations and additions rather than demolishing the existing commercial building. The building design preserves the historic eastern half of the north façade (facing NW Thurman Street), which has special features including a corbeled brick parapet, entablature, large store windows and transom windows, and a decorative belt course above the windows (see Adjustment Criterion D below for additional information about the historic resource) and adds large ground floor windows along the remaining windowless portions of the north and west facades, strengthening the storefront connection to the commercial corner of NW Thurman Street and NW 28th Avenue.

The paved and legally existing loading area along the southern edge of the site (approximately 24-foot-wide x 90-foot-long) has been in use for over 60 years. As part of this Adjustment request, it is proposed to be reduced to an area of 18 feet x 10 feet. As noted above, PBOT responded with no concerns regarding the Adjustment review and noted that reducing the existing curb cut as proposed, from about 24 feet to 10 feet, will add an additional on-street parking space and provide additional street tree plantings.

05: Provide opportunities to pause, sit, and interact.

Possible design approaches may include, but are not limited to:

- *Seating – providing a variety of seating types for passersby and building users;*
- *Enclosure - Offering a comfortable buffer and distinction from the public realm; and*
- *Trees and Landscaping - Promoting health and wellness by helping to mitigate the effects of urban heat island.*

In addition to indoor seating, several different outdoor patio spaces are proposed to support the restaurant or other uses, including lower and upper “courtyards” at the ground level, a “stadium seating” area adjacent to the external stairway, which leads up to a “lower rooftop deck” and a “back rooftop deck” at the south side of the building (per

Exhibit C.2 Floorplans). A covered patio is also proposed at the northwest corner of the second floor. The terraced, connected outdoor areas will provide a variety of seating types for customers and will be connected to the interior spaces via entrance doors. An elevator is also proposed at the south edge of the second story addition for improved accessibility.

There is currently no landscaping on site. As noted above, one new small tree is proposed at the ground level and 4-foot-wide landscape planters with evergreen shrubs to form a 6-foot-high screen will be provided along the southern edge of the outdoor seating areas. Additional landscape planters are proposed outside of the setback area ranging from 3-feet-2-inches-wide (at the ground level between the upper courtyard and the loading space) to 2.5-feet-wide (at the south and west edges of the back rooftop deck). The landscaping will offer a comfortable buffer and distinction from the public realm and will also promote privacy and provide a transition to the neighboring residences to the south. The landscaping will also promote health and wellness by helping to mitigate the effects of urban heat island.

For these reasons, staff finds the proposal is consistent with the Portland Citywide Design Guidelines.

Northwest District Plan

The Northwest District Plan is intended to guide public and private decision-making and investment in the Northwest District. The plan provides policy direction in a number of key areas including land use, urban design, transportation, housing, and economic development. Staff has considered all objectives and has addressed only those considered applicable to this project. The subject site is classified as a *Streetcar Main Street* site (Map 4, Page C-15) and the *Desired Characteristics and Traditions* of these Streetcar Main Street sites are as follows:

The Streetcar Era structures that define the character of the main streets, portions of which are located within the Alphabet Historic District, should be preserved or adaptively reused. New development should incorporate architectural features that characterize the district's main streets, such as large storefront windows, awnings and upper-story residences, and should continue the historic pattern of a continuous frontage of buildings and active uses located close to sidewalks. Large retail developments should be integrated into the main streets' fine grain urban pattern and mix of uses through strategies such as including spaces suitable for small tenants along street frontages or by including upper-floor residences. Where appropriate, development should include outdoor space for dining and other activities that contribute to a vibrant urban environment. Disruptions to the continuity of the main street pedestrian environment by curb cuts, driveways, garage fronts and surface parking areas should be avoided. (Page C-18)

The open courtyard spaces at the south side of the building will provide active outdoor space for dining and a direct connection to the NW 28th Avenue right-of-way. The north and west facades of the existing building are zero feet from the sidewalks along NW Thurman Street and NW 28th Avenue, and will remain in this location. New, large, storefront windows are proposed to be added at the northwest corner of the building while retaining the historic character of the building (see Adjustment Criterion D below for additional information about the historic resource). The existing loading space curb cut is proposed to be reduced, which will add an additional on-street parking space and provide additional street tree plantings.

Land Use Objectives (Page E-6)

C. Concentrate a mix of higher intensity residential and commercial development along main streets and the Portland Streetcar line.

D. Reinforce main streets and the Portland Streetcar line as the focus for retail activity in the District.

Business and Economic Development Objectives (Page E-34)

- B. Encourage commercial development that is oriented to pedestrians.*
- E. Encourage new commercial development and job creation opportunities to locate along main streets, the Portland Streetcar line, and close to the I-405 freeway.*

Urban Design Objectives (Page E-38)

- A. Integrate new development with the existing urban fabric by acknowledging the scale, proportions, orientation, quality of construction and other architectural and site design elements of the building's immediate area.*

Thurman-Vaughn Subarea⁴ Objectives (Page E-70)

- A. Enhance NW Thurman Street as a neighborhood-oriented main street that is primarily residential, with commercial uses clustered at intersections.*

The proposed multi-tenant, retail sales and service use building would concentrate higher intensity commercial development at NW Thurman Street (which is classified as a *Main Street*) and would reinforce this street/intersection as a focus for retail activity in the Northwest District. The outdoor terraced seating areas with immediate access from the NW 28th Avenue sidewalk would encourage development that is oriented to pedestrians. Rather than proposing a demolition of the existing building, the applicant is proposing a renovation, which will maintain the historic character of the building while providing an appropriately scaled expansion.

For these reasons, staff finds the proposal is consistent with the purpose statement for the Northwest District Plan.

For all the reasons listed above, staff finds this proposal is consistent with the desired character of the area.

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:

As noted above, the character statement for the CM2 zone is:

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

As noted above, under Criterion B, the Adjustment requests are to reduce the building and loading area setbacks and landscaping requirements along a residential-abutting lot line. The addition proposed within this setback is a single-story addition with a roof patio which sits about 10 feet below Trolleycar Loft's parapet, and landscape screening via planter boxes along the southern edge of the patio. The proposal includes only a partial second-story addition, which will be well under the maximum four stories, and will therefore complement the scale of surrounding residentially zoned areas.

⁴ Per Map 5 (Page E-3), the subject site is identified as being in the Thurman-Vaughn Subarea.

While both Adjustment requests are to reduce residential-abutting setbacks and landscaping, the loading area is legally existing along the southern edge of the site, and is proposed to be significantly reduced and narrowed. Allowing a loading space to remain at zero feet from the residential-abutting lot line will not affect the scale of the proposed development on the adjacent residentially zoned site, and may reduce off-site impacts by adding an additional on-street parking space and allowing deliveries and maintenance to happen on-site rather than blocking NW 28th Avenue.

Because of the reduced height and scale of the overall building, and because of the loading area reduction and limited impacts, cumulative effects will be minimal and the proposed additions, patios, and loading area will be consistent with the CM2 zone's intentions of providing pedestrian-oriented commercial uses with limited off-site impacts in an area with transit service.

For these reasons, staff finds the proposal is consistent with the character statement for the CM2 zone.

This criterion is met.

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

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. This site is marked with a dot and designated as a “documented resource.” The existing building was originally built between 1914 and 1921 and is classified as an eligible/contributing building in the Historic Resource Inventory. The eastern half of the Thurman Street façade has a corbeled brick parapet, entablature, and a decorative belt course above the windows. Additional special features include large store windows and transom windows. These features will all be retained. Much of the exterior façade has been remodeled with new doors, windows, asphalt siding, and plywood. While the partial second-story addition will change the appearance of this façade, the roof profile at the historic portion of the building (described above), will remain as is, thus preserving the historically significant features of the front (north) façade.

As noted above in Criterion B, large, ground-floor windows along the remaining windowless north and west facades are proposed. Much of the original siding on this non-historically contributing section of the building is brick but was covered up by vertically clad composite material. This composite material will be removed, and brick will be repaired/replaced as necessary. This brick siding at the ground level will better match the historically significant front façade and help unify the building's design.

This criterion is met.

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

Findings:

While an Adjustment is requested to reduce the minimum residential-abutting (south) building setback from 10 feet to 6 feet at the southeastern addition to the building, the significantly reduced height and FAR (described under Criterion A above) reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.

While a full 10 feet of L3 landscape buffer is not proposed, one new small tree is proposed at the ground level and 4-foot-wide landscape planters will be provided along the southern edges of the “lower rooftop deck” and “lower courtyard” seating areas with 6-foot-tall evergreen shrubs. Combined with the revised floorplans which do not provide customer seating within 10 feet of the southern lot line, the landscaping will promote

privacy and provide a transition to the neighboring residences to the south. It will also add landscaping to a currently barren site. A condition of approval will require that the landscaped buffer areas be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

In order to address neighbor concerns about customer noise on the patios, particularly at night, the applicant has proposed a new gate/fence at the southwestern edge of the site to limit access when the business is closed (to be in compliance with City of Portland zoning and building code requirements) and signage at all patio access doors (2 on the ground level and 2 at the upper level) stating: "South outdoor areas closed to customers after 10 PM."

As conditioned, 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 Map with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, this criterion is not applicable.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space. Two Adjustments are requested to:

1. reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer; and
2. reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street (NW 28th Avenue).

While an Adjustment is requested to reduce the minimum residential-abutting (south) building setback from 10 feet to 6 feet at the southeastern addition to the building, about half of the southern façade is over 23 feet from the southern lot line, which is a substantial increase in distance over the 10-foot minimum building setback, and helps offset the building's overall massing. Additionally, the maximum height of the structure, including the proposed partial second story addition is approximately 35-feet, which is substantially lower than the maximum allowed 45-foot building height. Furthermore, the southernmost 18 feet of the building, where the second level patio is proposed, is only about 14 feet in height, and sits about 10 feet lower than the top of Trolleycar Loft's parapet. The partial second story addition is proposed to be set back 32 to 36 feet from the southern property line, resulting in a step-down building design from north to south. The significantly reduced height and FAR (compared to what the CM2 zone allows) reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.

While a full 10 feet of L3 landscape buffer is not proposed, one new small tree is proposed at the ground level and 4-foot-wide landscape planters with 6-foot-tall evergreen shrubs will be provided along the southern edge of the seating areas where the building setback and landscaping adjustment is requested. Combined with the revised floorplans which do not provide customer seating within 10 feet of the southern lot line, the landscaping will promote privacy and provide a transition to the neighboring residences to the south. It will also improve the appearance of the site by providing additional landscaping, as the current development has no landscaping. A condition of approval will require that the landscaped buffer areas be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

The existing 24-foot-wide x 90-foot-long paved loading area along the southern edge of the site is proposed to be reduced to 18 feet x 10 feet. PBOT responded with no concerns regarding the Adjustment review and noted that reducing the existing curb cut as proposed, from about 24 feet to 10 feet, will add an additional on-street parking space and provide additional street tree plantings. The northernmost 4 feet of the loading space is proposed to be located between the southernmost building addition and the street, which will obscure only about 4% of the western building facade. The loading space is located along the southern property line and is connected to the 6-foot access area proposed at the south edge of the site. If the loading area was located anywhere else on site, it would obscure more of the building facade. New landscaping planters are proposed along the entire north edge and a portion of the east edge of the loading space, as well as within the existing 24-foot-wide x 90-foot-long paved loading area. These features will help improve the appearance of the loading area and overall site.

The “desired character” of this site is determined by the character statement of the CM2 zone, the purpose statements of the Design Overlay Zone and the Northwest Plan District, the Northwest District Plan, and the Portland Citywide Design Guidelines.

- The proposed additions, patios, and loading area will be consistent with the CM2 zone’s intentions of providing commercial uses with limited off-site impacts in an area with transit service.
- Rather than demolishing the existing commercial building, the applicant is proposing a renovation which will include 9 new, full-story ground floor windows along the (currently windowless) north and west facades, and new indoor dining and outdoor patio seating, which will encourage social interaction and foster inclusivity in people’s daily experience and allow for year-round use regardless of the climate. Trash, delivery, and electric utility access are proposed at the southeast corner of the site where these areas will remain out of public view and away from the street facing facades. By allowing multiple tenants with a range of retail sales and service uses, the commercial building should have flexibility for changing tenants and smaller scale restaurants, and will therefore promote long-term resilience in the face of changing demographics and economic conditions. For these reasons, staff finds the proposal is consistent with the purpose statement for the Design Overlay Zone.
- The proposal will include a mix of different retail sales and service uses on a site with transit access and will therefore encourage a concentration of commercial uses along NW Thurman (classified as a “main street”), strengthen the area’s role as a commercial and residential center, and enhance the pedestrian experience. For these reasons, staff finds the proposal is consistent with the purpose statements for the Northwest Plan District and the Northwest District Plan.
- The building design preserves the historic portions of the north facade and adds ground floor windows along the remaining portions of the north and west facades, strengthening the storefront connection to the commercial corner of NW Thurman Street and NW 28th Avenue. The proposed indoor and outdoor dining areas will provide a variety of seating types for customers and will be connected externally via stairways and internally via entrance doors. An elevator is also proposed at the south edge of the second story addition for improved accessibility. The proposed landscaping will offer a comfortable buffer and distinction from the public realm and promote health and wellness by helping to mitigate the effects of urban heat island. For these reasons, staff finds the proposal is consistent with the Portland Citywide Design Guidelines.

Because of the reduced height and scale of the overall building, and because of the loading area reduction and limited impacts, cumulative effects will be minimal and the proposed additions, patios, and loading area will be consistent with the CM2 zone's intentions as stated above.

The existing building was originally built between 1914 and 1921 and is classified as an eligible/contributing building in the Historic Resource Inventory. The eastern half of the Thurman Street façade has a corbeled brick parapet, entablature, and a decorative belt course above the windows. Additional special features include large store windows and transom windows. These features will all be retained. While the partial second-story addition will change the appearance of this façade, the roof profile at the historic portion of the, will remain as is, thus preserving the historically significant features of the front façade. Much of the original siding on this non-historically contributing section of the building is brick but was covered up by vertically clad composite material. This composite material will be removed, and brick will be repaired/replaced as necessary. The brick siding will better match the historically significant front façade and, along with the new ground floor windows, will help unify the building's design.

Impacts resulting from the Adjustments are mitigated to the extent practical as follows:

- The significantly reduced height and FAR reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.
- Customer seating will not be provided within 10 feet of the southern lot line
- The landscaping will promote privacy, provide a transition to the neighboring residences to the south, and improve the appearance of the site.
- In order to address neighbor concerns about customer noise on the patios, particularly at night, the applicant has proposed a new gate/fence at the southwestern edge of the site to limit access when the business is closed and signage at all patio access doors (2 on the ground level and 2 at the upper level) stating: "South outdoor areas closed to customers after 10 PM."

The proposal meets the applicable approval criteria and approval is therefore recommended.

ADMINISTRATIVE DECISION

Approval of 2 Adjustments to:

1. reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer(Section 33.130.215.B, Table 130-2); and
2. reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street (NW 28th Avenue) (Section 33.266.310.E, Table 266-8)

as part of a larger proposal to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space, per the approved plans and elevations, Exhibits C-1 through C-3, signed and dated February 28, 2023, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 22-159396 AD." All requirements must be graphically represented on the site plan, landscape, or other required plans and must be labeled "REQUIRED."

- B. The landscaped buffer areas along the southern edge of the seating areas (upper courtyard, lower courtyard, stadium seating, and lower rooftop deck, as shown on Exhibit C.2) must be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

Staff Planner: David Besley



Decision rendered by: _____ **on February 28, 2023.**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 3, 2023

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

Procedural Information. The application for this land use review was submitted on July 1, 2022, and was determined to be complete on October 31, 2022.

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 July 1, 2022.

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 requested that the 120-day review period be extended a maximum 245 days. **The 365-day extended review period (120 days + 245 day extension) will expire on: October 31, 2023.**

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 decision 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.

Appealing this decision. This decision may be appealed to the Adjustment Committee, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on March 17, 2023. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this**

decision. If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

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

Unless appealed, the final decision will be recorded after **March 17, 2023** by the Bureau of Development Services.

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

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

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

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

Applying for your permits. A building permit, occupancy permit, or development permit 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.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

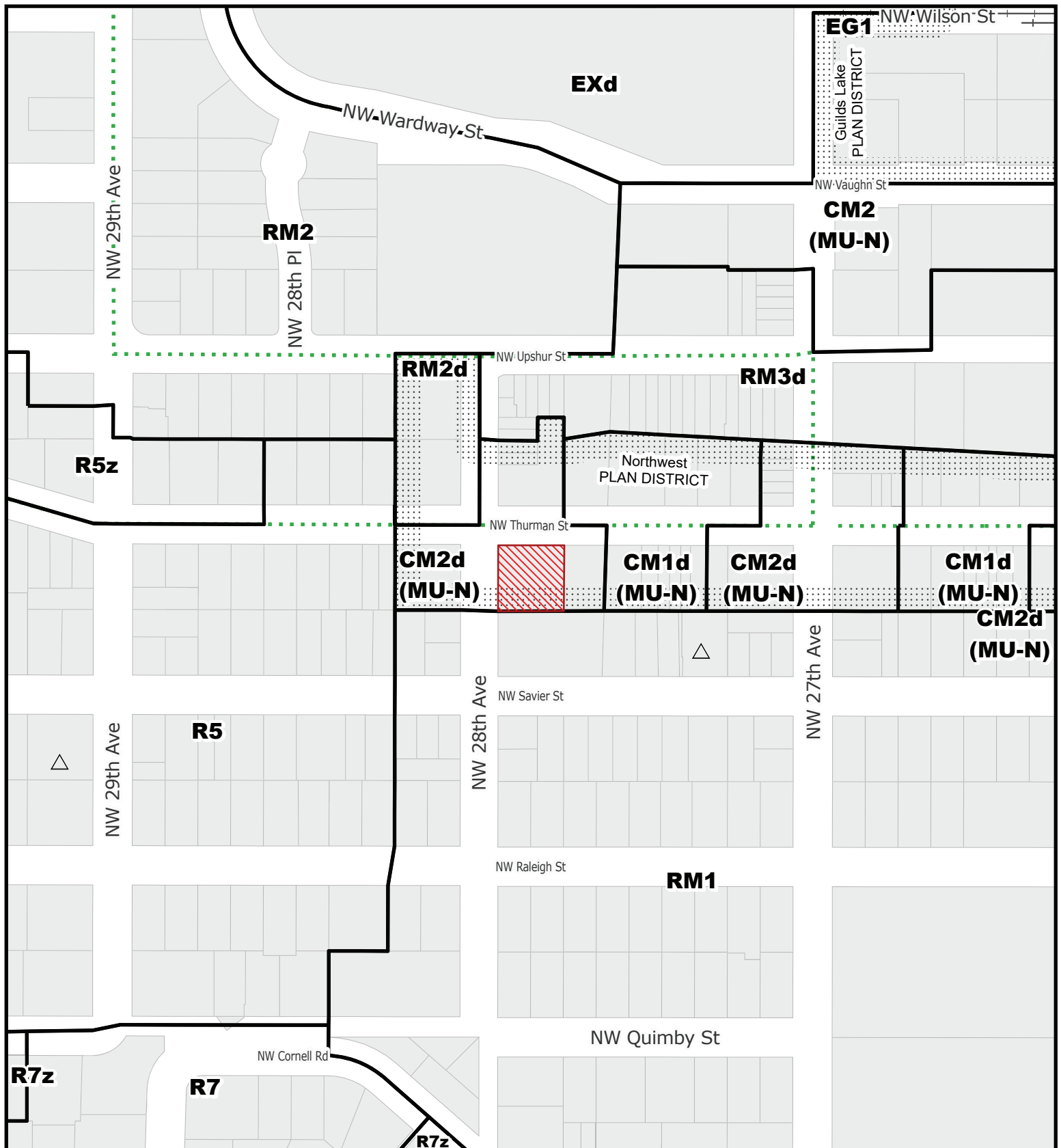
- A. Applicant submittal:
 - 1. Narrative
 - 2. Response to neighbors
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Floor Plans (attached)
 - 3. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Life Safety Section of BDS
 - 3. Bureau of Environmental Services
 - 4. Fire Bureau
 - 5. Bureaus responding with no concerns (Site Development Section of BDS and Water Bureaus)
- F. Correspondence:
 - 1. Elizabeth Rusch, 11/14/22, support letter
 - 2. Mary DeVries, 12/8/22, opposition letter
 - 3. John and Jo Ann Utz, 12/5/22, opposition letter
 - 4. Claire Hanway, 12/5/22, support letter
 - 5. Peter Beninato, 12/5/22, opposition letter
 - 6. Mike Kirk, 12/5/22, support letter
 - 7. Tom Barbara, 12/7/22, opposition letter
 - 8. Richard Hicks, 12/7/22, opposition letter
 - 9. Linda Walton, 12/7/22, opposition letter
 - 10. Greg Passmore, 12/7/22, support letter
 - 11. John DeVoe, 12/7/22, opposition letter
 - 12. Susie Stragnell, 12/7/22, opposition letter
 - 13. Glenn and Deanna Ford, 12/7/22, opposition letter 12/7/22, opposition letter
 - 14. Reinier Warschauer, 12/7/22, opposition letter
 - 15. Lisa Taaffe, 12/7/22, opposition letter
 - 16. Izhak Shafran, 12/7/22, opposition letter
 - 17. Sue Galatz, 12/8/22, opposition letter 2/8/22, opposition letter
 - 18. Greg Simons and Anne Harris, 12/8/22, opposition letter
 - 19. Shelley Jordan, 12/8/22, opposition letter
 - 20. Martin Davidson, 12/8/22, opposition letter
 - 21. Joni Marie Johnson, 12/8/22, opposition letter
 - 22. Gayle Kvernland, 12/8/22, opposition letter
 - 23. Patrick Kehoe, 12/8/22, opposition letter
 - 24. James Thompson, 12/8/22, opposition letter
 - 25. Northwest District Association (NWDA), 12/8/22, support letter
 - 26. Lisa Selman, 12/8/22, opposition letter
 - 27. David Greenstein, 12/8/22, opposition letter
 - 28. Olivia Horgan, 12/8/22, opposition letter
 - 29. Jim McAdoo/TLHOA , 12/8/22, opposition letter
 - 30. Mark Samuel and Wanda Meyer-Price, 12/8/22, opposition letter
 - 31. Bob Clay, 12/8/22, opposition letter
 - 32. Susan Stone, 12/8/22, opposition letter
 - 33. Regna Merritt, 12/8/22, opposition letter

34. Elliot Levin, 12/8/22, opposition letter
35. Jill Walworth, 12/8/22, opposition letter
36. Ernest Cooper, 12/8/22, support letter
37. Stacey Vallas, 12/8/22, opposition letter

G. Other:

1. Original LU Application and Receipt
2. Incompleteness determination letter, dated July 28, 2022
3. Request for Extension of 120-Day Review Period signed by applicant, dated January 2, 2023

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).



For Zoning Code in effect Post August 1, 2021

ZONING

THIS SITE LIES WITHIN THE:
NORTHWEST PLAN DISTRICT



Site

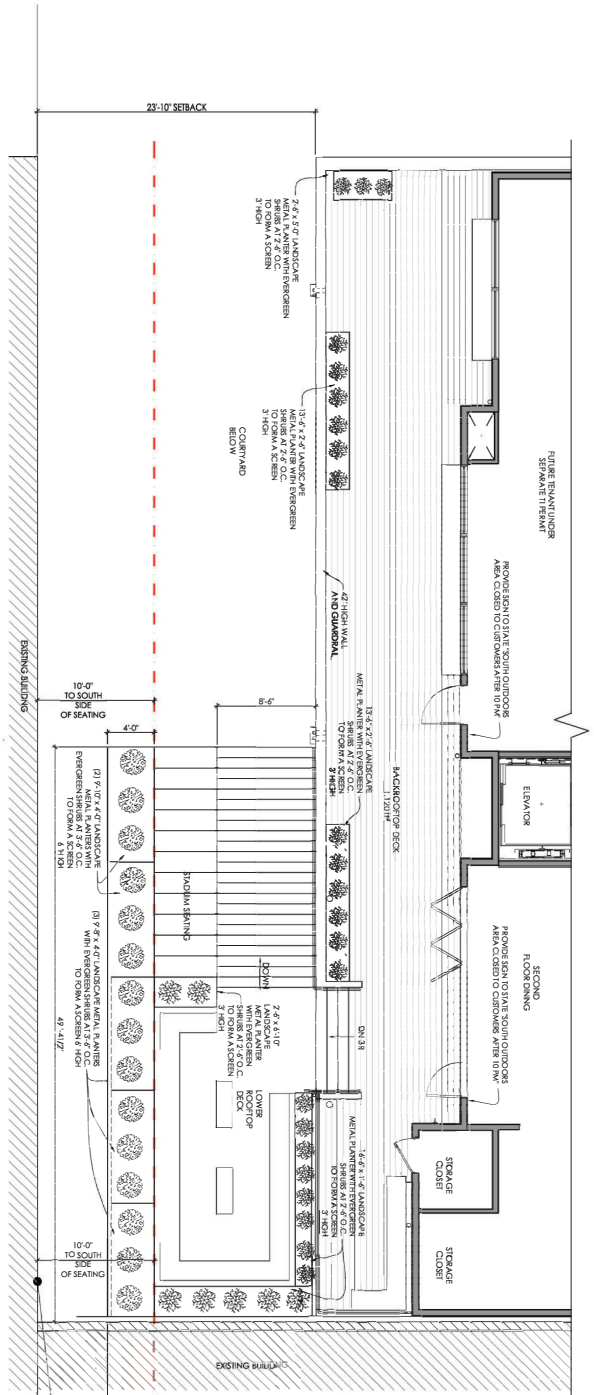


Historic Landmark

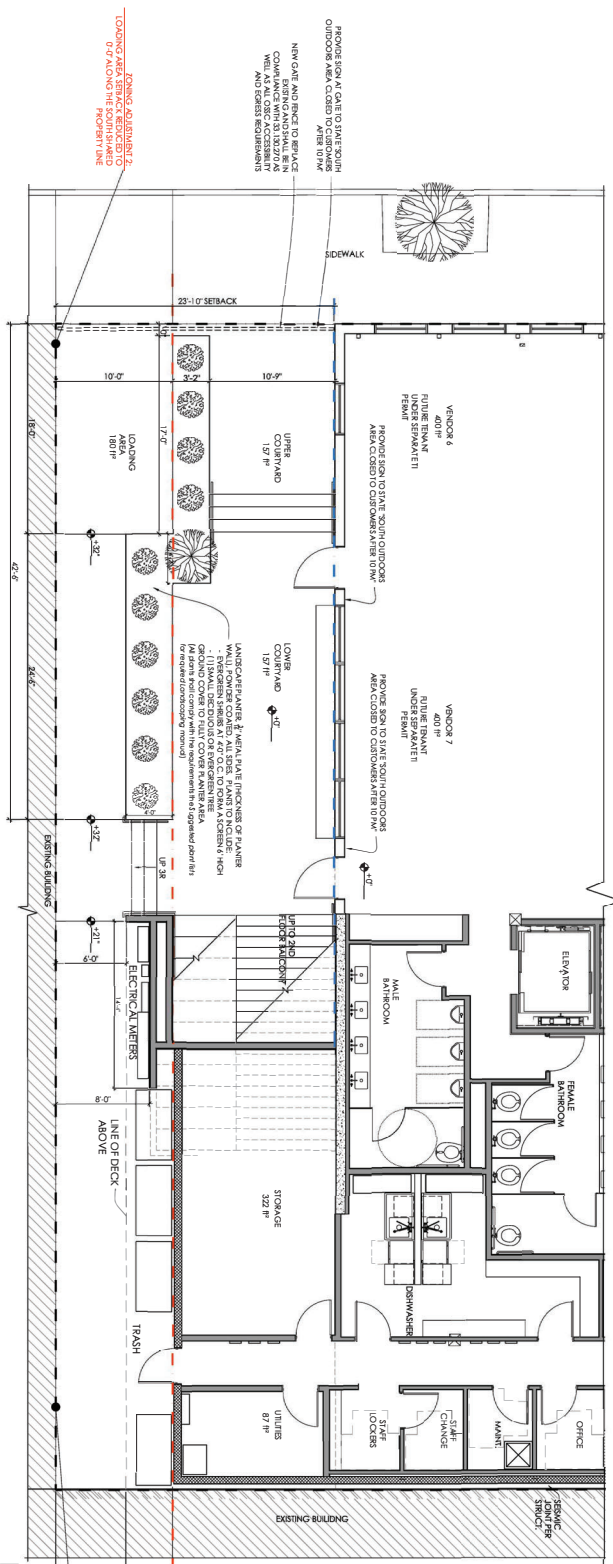


Recreational Trails

File No.	<u>LU 22 - 159396 AD</u>
1/4 Section	<u>2826</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1N1E29DC 8600</u>
Exhibit	<u>B Jul 05, 2022</u>



2 PARTIAL SECOND FLOOR PLAN
3/16" = 1'-0"



1 PARTIAL FIRST FLOOR PLAN
3/16" = 1'-0"

Approved
City of Portland
Bureau of Development Services
Planner
David Besley
Date
2/28/23
*This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

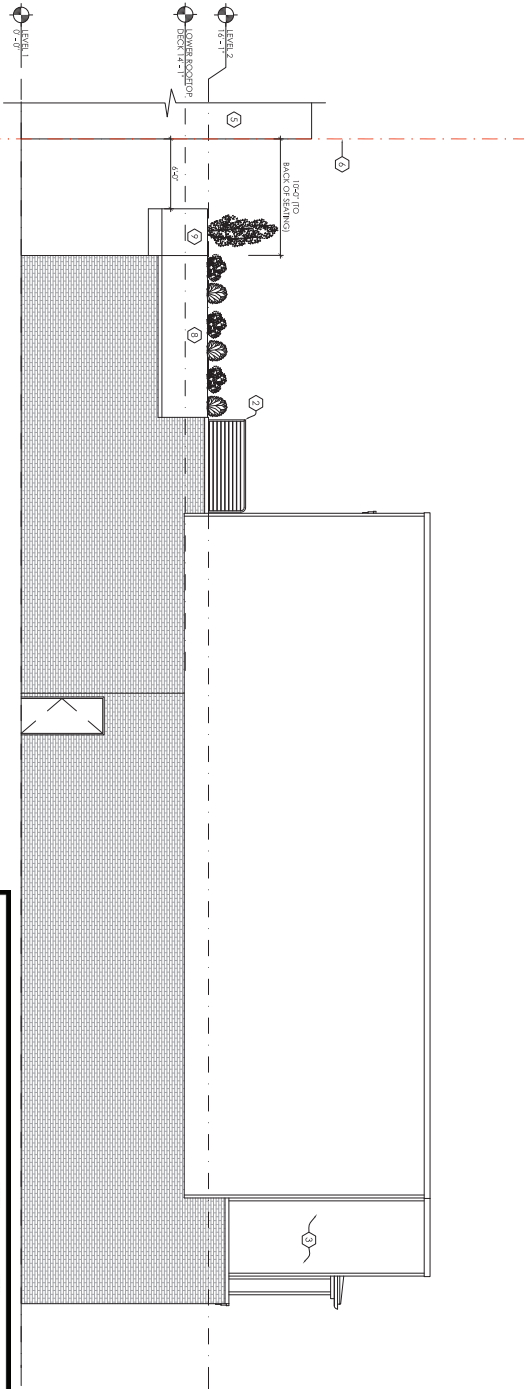
- GENERAL NOTES:
1. SCENE SEE OUTDOOR AREAS CLOSED TO CUSTOMERS AFTER 10:00 PM
 2. BUILDING WILL BE IN CONFORMANCE WITH THE OREGON HOOKER CLANNAIR ACT AND FOR REMOVED BUILDING STRUCTURE RELATED TO LAMPING AND ALL OUTDOOR AREAS WILL BE IN CONFORMANCE WITH THE OREGON HOOKER CLANNAIR ACT
 3. ALL EXTERIOR AREAS WILL BE IN CONFORMANCE WITH THE OREGON HOOKER CLANNAIR ACT
 4. OUTDOOR AREAS WILL BE IN CONFORMANCE WITH THE OREGON HOOKER CLANNAIR ACT

Partial
FLOOR PLANS

Zoning Adjustment
February 7, 2023
Thurman Food Hall
2774-2798 NW Thurman St.
Portland, OR

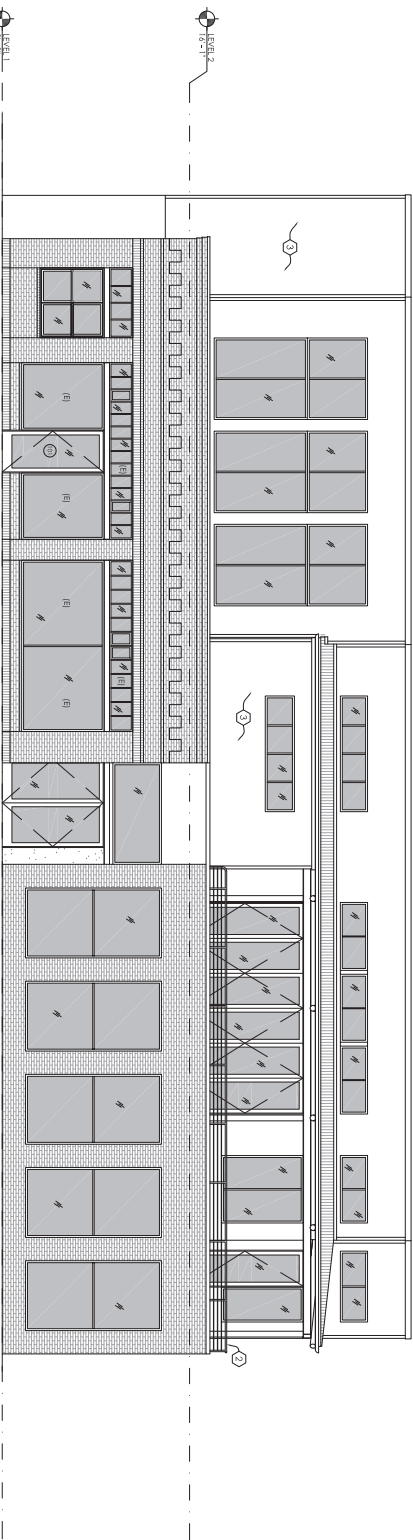
A1.2

ARCHITECTURE B PLANNING
www.integratearch.com
© Integrate Architecture & Planning, Inc.



EAST ELEVATION

3/16" = 1'-0"



NORTH ELEVATION

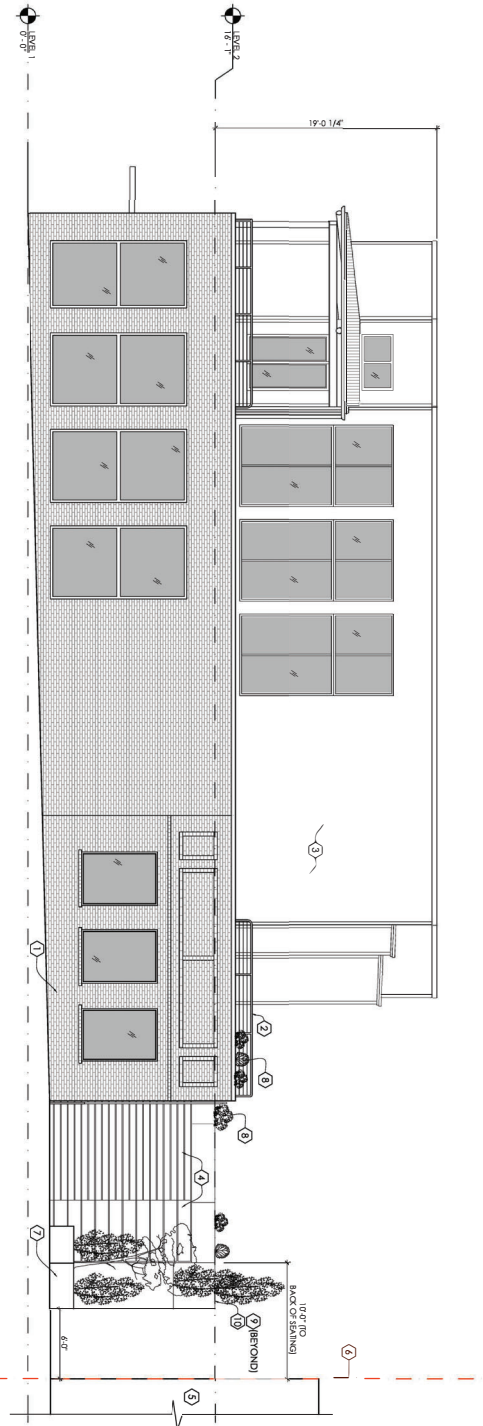
3/16" = 1'-0"

Approved
City of Portland
Bureau of Development Services
Planner **David Besley**
Date **2/28/23**
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

KEY NOTES

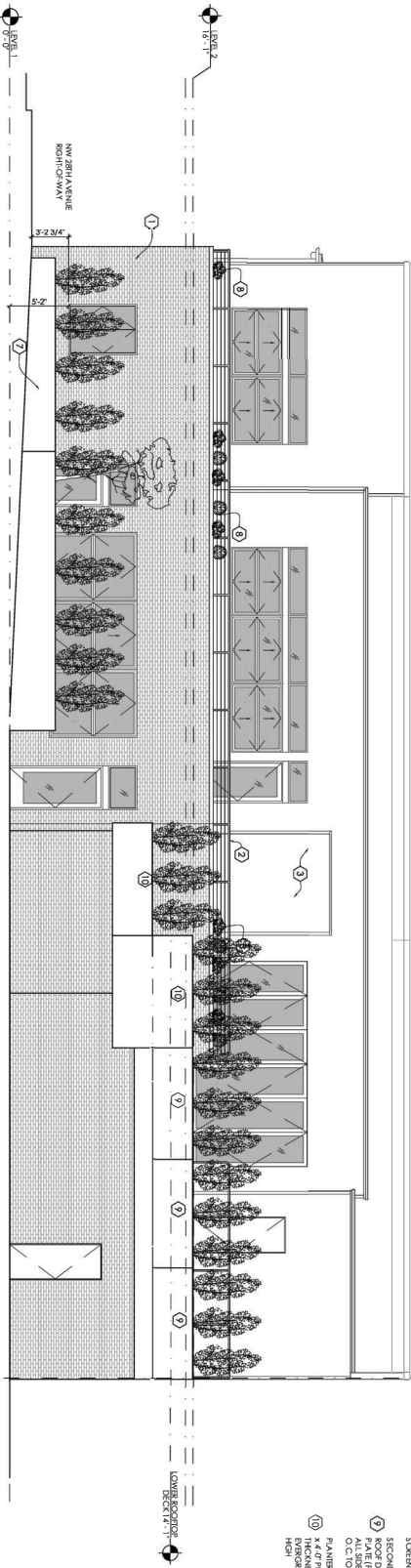
1. EXTERIOR MASONRY WALL
2. BALCONY GLAZING
3. NEW SECOND FLOOR WALLS BEYOND
4. NEW STAIRS AND STAIRING TO SECOND FLOOR BALCONY AREA ABOVE
5. EXISTING TROUBLE CAR LIFT BUILDING ADJACENT TO SOUTH SIDE OF SITE, SEE EXHIBIT 2
6. SOUTH PROPERTY LINE
7. NEW LANDSCAPE PLANTER, # METAL PLANTER #1 = PLANTER WALL THICKNESS, POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 3' HIGH
#2 = METAL PLANTER WALL THICKNESS, POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 3' HIGH
#3 = METAL PLANTER WALL THICKNESS, POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 3' HIGH
#4 = METAL PLANTER WALL THICKNESS, POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 3' HIGH
#5 = METAL PLANTER WALL THICKNESS, POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 3' HIGH
#6 = METAL PLANTER WALL THICKNESS, POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 3' HIGH
#7 = METAL PLANTER WALL THICKNESS, POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 3' HIGH
8. SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER PLANTER AT SECOND FLOOR BALCONY/ROOF TOP
9. SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER PLANTER AT SECOND FLOOR BALCONY/ROOF TOP
10. SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER PLANTER AT SECOND FLOOR BALCONY/ROOF TOP

Exh. C.3
LU 22-159396 AD



1 WEST ELEVATION
3/16" = 1'-0"

Approved
City of Portland
Bureau of Development Services
Planner **David Besley**
Date **2/28/23**
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



2 SOUTH ELEVATION
3/16" = 1'-0"

KEY NOTES

- 1 EXISTING MAJOR WALKWAY
- 2 BALCONY GLAZING
- 3 NEW SECOND FLOOR WALLS BEYOND
- 4 NEW STAIR AND BALCONY TO SECOND FLOOR BALCONY AREA ABOVE
- 5 EXISTING 10'0" WIDE LOT LINE BUILDING ADJACENT TO SOUTH SIDE OF 315.18 EXHIBIT 2
- 6 SOUTH PROPERTY LINE
- 7 NEW LANDSCAPE PLANTER AT METAL PLATE DECK = PLANTER WALL THICKNESS POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 6' HIGH
- 8 PLANTER WALL THICKNESS POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 6' HIGH
- 9 SECOND FLOOR LANDSCAPE PLANTER, LANDSCAPE PLANTER AT SECOND FLOOR BALCONY/ROOF TOP DECK TO BE 2" METAL PLATE PLANTER WALL THICKNESS POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 2'-0" TO FORM A SCREEN 6' HIGH
- 10 SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER PLATE (RAMP WALL THICKNESS) POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH
- 11 PLANTER AT SOUTH SIDE OF STAIRS ELEVATIONS, 10'1" WIDE PLANTER WALL THICKNESS POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH

Exh. C.3
LU 22-159396 AD

EXTERIOR ELEVATIONS

Zoning Adjustment
February 7, 2023
Thurston Food Hall
2774/2798 NW Thurston St.
Portland, OR

A3.2

INTEGRATE ARCHITECTURE & PLANNING
www.integratearch.com
© 2023 Integrate Architecture & Planning, LLC



City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 | 503-823-7300 | www.portlandoregon.gov/bds



Type II and IIX Decision Appeal Form

LU Number: _____

FOR INTAKE, STAFF USE ONLY

Date/Time Received _____ ☐ Action Attached _____
Received By _____ Fee Amount _____
Appeal Deadline Date _____ Y N Fee Waived
☐ Entered in Appeal Log _____ Bill # _____
☐ Notice to Dev. Review _____ Neighborhood _____

APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS _____ DEADLINE OF APPEAL _____

Name _____

Address _____ City _____ State/Zip Code _____

Day Phone _____ Email _____ Fax _____

Interest in proposal (applicant, neighbor, etc.) _____

Identify the specific approval criteria at the source of the appeal

Zoning Code Section 33. _____ . _____ Zoning Code Section 33. _____ . _____

Zoning Code Section 33. _____ . _____ Zoning Code Section 33. _____ . _____

Describe how the proposal does or does not meet the specific approval criteria identified above or how the City erred procedurally:

Appellant's Name _____

I acknowledge this typed
name as my signature

FILE THE APPEAL - Submit the following:

- ☐ This completed appeal form
- ☐ A copy of the Type II or IIX Decision being appealed
- ☐ An appeal fee as follows:
 - ☐ \$250, payable to City of Portland
 - ☐ No appeal fee is charged when appeal is filed by Civic Life recognized organizations for properties within organization's boundaries
 - ☐ Fee waiver request letter for low income individual is signed and attached
 - ☐ Fee waiver request letter for Unincorporated Multnomah County recognized organizations is signed and attached

Email this application and supporting documents
to: LandUseIntake@portlandoregon.gov

To file the appeal, this completed application form and any supporting documentation must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of the Decision. To be valid, the City must receive the appeal by 4:30 p.m. on the deadline listed in the Decision. Once the completed appeal application form is received, a Land Use Services Technician will contact you with instructions on how to pay the fee.

A public hearing on the appeal will be held. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

Type II and IIx Appeal Procedure

For land use review applications that follow a Type II and IIx procedure, the Bureau of Development Services makes the decision on the application. This decision is called the Administrative Decision and may be appealed. The applicant and/or an interested person who does not agree with the Administrative Decision may appeal it by using the Type II and IIx Decision Appeal Form and submitting an appeal fee. No appeal fee is charged for Type II and IIx appeals when filed by a Civic Life recognized organization; the appeal must be for property located within the organization's boundaries, and the vote to appeal must be in accordance with the organization's bylaws. An appeal of a decision triggers an initial hearing before a City review body.

There is a 14-day appeal period that starts the day that the decision is mailed. The last day to appeal is stated in the decision. If appealed, a specific review body hears the case and makes the final City decision. These review bodies include:

- The Hearings Officer
- The Design Commission
- The Portland Historic Landmarks Commission
- The Adjustment Committee

Type II and IIx Appeal Hearing

When a decision is appealed, the Bureau of Development Services schedules a public hearing and sends out a notice within five days of receiving the appeal. The hearing is held at least 21 days from the mailing of the notice.

At the hearing, everyone attending is allowed to speak to the review body. The testimony must address whether or not the proposal meets the approval criteria as described in the Administrative Decision or how the City erred procedurally. Written testimony is also accepted prior to or at the hearing. This may include additional information submitted by the applicant and/or appellant.

If a committee reviews the appeal, a decision is made at the hearing. If the Hearings Officer is the review body, they may make a decision at the hearing, or make a decision later. Both the Hearings Officer and the committee must make a written decision and send notice of the decision within 17 days after the hearing. The decision is mailed to the appellant, applicant, and to anyone who submits oral or written testimony at the hearing.

The review body may adopt, modify, or overturn the Administrative Decision based on the information presented at the hearing and in the case record.

Appeal Fees

An appeal of a land use decision must include an appeal fee. There is a \$250 fee charged for appealing a Type II and IIx decision. This fee is refunded if the decision-maker grants the appeal; i.e. agrees with the appellant.

In order for an appeal to be valid, an appeal fee must accompany the appeal form or a fee waiver request must be approved before the appeal deadline as stated in the specific land use decision (Section 33.730.020 of the Portland Zoning Code). See below for fee waiver eligibility information.

Low Income Fee Waiver

The appeal fee may be waived for low income applicants who appeal a land use decision on the site of their primary residence in which they have an ownership interest. In addition, the appeal fee may be waived for low income individuals who have resided for at least 60 days within the required notification area for the land use review. Low income individuals requesting a fee waiver will be required to certify their annual gross income and household size. The appeal fee will only be waived for households with a gross annual income of less than 50 percent of the area median income as established and adjusted for household size by the federal Department of Housing and Urban Development (HUD). All financial information submitted to request a fee waiver is confidential. Fee waiver requests must be approved prior to appeal deadline to be considered for a fee waiver.

Information is subject to change

Attachment A

Appeal of Adjustments at 2788 NW Thurman Street 97210

Applicant's requested Adjustments do not equally or better meet the purpose of the modified zoning regulations.

Alternatives would improve project without planning adjustments.

ZONING CODE SECTION 33.130.215: Setbacks

(Per Notice of Decision Attached) Setback Adjustment

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, and add ground level and second floor patios connected via an external stairway, which requires an Adjustment to reduce the minimum 10-foot building setback to 6 feet (for commercial lots abutting residential lots) along the south lot line, and to waive the L3 landscaping buffer.

33.130.215 Setbacks

The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial/mixed use zones. The setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air, and the potential for privacy for adjacent residential zones.

The residential building adjacent to the project to the south (Trolleycar Lofts) includes a solid brick wall at its north façade. The northern facade of Trolleycar Lofts is located zero feet from the shared lot line with the subject site. While there are no doors or windows along its northern edge, the 6 units within have partial roof patios. The second level patio of the proposed commercial development includes a smaller patio that is closest to the residential zone, which has a finished surface elevation about 10 feet beneath the top of Trolleycar Loft's parapet, and a larger second level patio which is set back 24 feet from the residential property line and has a finished surface elevation that is 8 feet lower than the top of the parapet (see Exhibit A.2, page 4). Because the second level patios are significantly lower than the Trolleycar Lofts parapet, privacy to the residents of Trolleycar Lofts will be promoted.

Trolleycar Lofts, a residential condominium building adjacent to/sharing the project's southern property line adjoining the project's current 10'x100' alley, However, its description is incomplete and incorrect.

Trolleycar Lofts has six (6) penthouses adjacent to six (6) roof decks on its roof.

Five (5) of the six (6) penthouses have (1) bedroom and (1) full size bathroom. Range in size from 357 SF to 470 SF. Total 2134SF

Closest to Trolleycar Lofts North parapet wall and the project are:

Unit 2759 roof deck

Unit 2761 penthouse/roof deck

Unit 2777 penthouse/roof deck

Unit 2769's penthouse's north wall.

Unit 1704 penthouse/roof deck.

Trolleycar Lofts penthouse fronts/roofs are 6 feet to 8 feet *above* the its North parapet. Parapet is not a complete penthouse sound barrier given origins' locations and distances from the parapet.

Unit 1704 penthouse/roof deck also adjacent to Trolleycar Lofts West parapet and NW28th's East sidewalk. NW 28th East street side parking and East sidewalk next to Unit 1704's two (2) first floor bedrooms' West exterior walls.

Trolleycar Lofts also has thirty (30) venting skylights. Of these, eleven (11) venting skylights are located on its five (5) penthouses and four (4) slope deck roof areas closest to the building's North parapet.

Three (3) lofts have multi-split systems which will reduce venting skylight use. Nonetheless, owners will also continue to use first floor living spaces' and penthouses' exterior windows to maintain interior ventilation.

Project's sound transmission to Trolleycar Lofts:

(1) might not be fully attenuated by its origins' elevations and distances.

(2) is important to Trolleycar Lofts livability.

Applicant must conduct with the assistance of professional consultancy(ies), sound transmission investigations.

Investigations to ensure that Trolleycar Lofts penthouses and first floor living areas sound levels are at a constant 55dBA and in compliance with Title 18 Noise Control Code.

First investigation submitted before Building Permit approval and second investigation submitted within (1) year after project completed. Each to confirm residential sound transmission compliance at 55dBA at Trolleycar Lofts.

Further, Applicant must review and modify as/if required, project's operating hours in its other business areas beyond the South outdoor courtyard, lower rooftop deck, and back rooftop deck 10PM closure to ensure compliance for other adjacent residences.

Applicant to not allow property owner and/or tenant amplified live and recorded music.

ZONING CODE SECTION 33.266.310: Loading Space Adjustment:
(Per Notice of Decision attached):

A second Adjustment is requested to reduce the residential-abutting setbacks for a loading space from 5 feet (landscaped to the L4 standard) to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street. The relevant purpose statements and associated findings are found below:

33.805.040 Adjustment 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.

Criteria A has Not been met.

Granting the Adjustment will NOT equally or better meet the purpose of the regulation to be modified.

33.266.310 Loading Standards

Code section, 33.266.130 omitted in the attached Decision. Cites the purpose of the requested adjustment.

33.266.130 Development Standards for All Other Development (Parking, Loading, And Transportation And Parking Demand Management)

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

Loading zone at 10'x18' is too small to allow garbage/recycling trucks to load. Only pickups and vans can safely unload/load in the zone. A front loading garbage truck is 8 ½ feet wide. A rear loading garbage truck is 8 feet wide. A side loading recycling truck is also 8' wide. All three truck types will have to be loaded on NW 28th Avenue. As well, beverage delivery trucks the same size as garbage/recycling trucks will also have to unload/load on NW 28th.

An additional parking space on NW 28th has been added adjacent to the loading zone. Will limit garbage/recycling and beverage truck loading efficiency and safety.

As well, pedestrian safety on the sidewalk adjoining the alley could be compromised by loading zone's proximity to the sidewalk.

Past use of alley has been limited/infrequent. A small number of garbage and recycling bins were moved from the alley to NW 28th. Project will significantly change that volume.

Trolley-car Lofts residents will have a more frequent garage driveway and sidewalk safety issue with the right or south side of the new loading zone as will other drivers and pedestrians. Especially Trolley-car Lofts residents when leaving the condominium's garage and turning right off its driveway onto NW 28th.

ZONING CODE SECTION 33.805.040: Adjustment approval criteria

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;

Landscaping, reduced building setbacks, and shorter loading zone in alley allow larger outdoor courtyards.

Larger outdoor courtyards can accommodate large gatherings. Large gatherings could affect sound transmission to Trolley-car Lofts living spaces. Their likelihood should be included in project's sound transmission investigations requested by Trolley-car Lofts.

Project's large gatherings could also affect sound transmission to two residences on east side of NW 28th as well as two residences at the NW Savier/NW 28th intersection.

PLANNING CODE SECTION 33.420.010: Design Overlay Zone

(Per Notice of Decision attached):

The site is in the Design overlay zone, the purpose for which is in Zoning Code Section 33.420.010:

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- *Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;*
- *Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and*
- *Promotes quality and long-term resilience in the face of changing demographics, climate and economy.*

Whether or not project can achieve the Design Overlay Zone's three (3) goals is subjective and difficult. However, no full-time on-site project manager for a large diverse multi-tenant restaurant and retail property, will make that effort difficult/problematic. Project manager should be on-site for at least two (2) years after project completed.

Attachment B

Trolleycar Lofts Homeowners Association

Trolleycar Lofts Homeowners Association (TLHOA) a six (6) condominium since 1998 in NW Portland with ten (10) owners and residents.

Trolleycar Lofts (TL) a former 1914 industrial/warehouse masonry building re-developed into six (6) residential lofts in 1996-1998. Located in RM1-Residential Multi-Dwelling zone. Building 16000SF.

Nascent Collective LLC (Nascent) owned since late 2020, a 1914 single story frame/masonry commercial building at 2788 NW Thurman Street 97210. Located in CM2D (MU-N) zone.

Nascent and Trolleycar Lofts buildings built in 1913/1914 by Beno & Ballis, two real estate developers in Portland, OR.

Trolleycar Lofts building later sold by developers in 1920's. Multiple commercial, military, and warehouse uses until redevelopment in 1998/1998.

Nascent's single story building has an existing 10' x 100' paved alley separating Trolleycar Lofts building's North exterior masonry wall from Nascent's building's South exterior masonry walls.

Adjacent to last tenant's, Crackerjacks', outdoor bar/restaurant dining area adjacent to the alley. Area installed without Bureau Development Services approval.

Southern part of the alley next to an adjacent property has been enclosed by two (2) small storage sheds.



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

Carmen Rubio, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7310
TTY: (503) 823-6868
www.portland.gov/bds

Date: March 3, 2023
To: Interested Person
From: David Besley, Land Use Services
503-865-6715 / David.Besley@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 22-159396 AD

GENERAL INFORMATION

Applicant: Philip Sydnor
Integrate Architecture & Planning
1919 N Kilpatrick
Portland, OR 97217
Phone: 503.312.2561
Email: phil@integratearch.com

Owner Rep: Erik Opsahl
Savier Development
2724 NW Savier St
Portland, OR 97210

Owner: Nascent Collective Llc
Po Box 29107
Portland, OR 97296

Site Address: 2788 NW THURMAN ST

Legal Description: TL 8600 0.23 ACRES, SECTION 29 1N 1E
Tax Account No.: R941290220
State ID No.: 1N1E29DC 08600
Quarter Section: 2826

Neighborhood: Northwest District, contact Greg Theisen at planningchair@northwestdistrictassociation.org
Business District: None
District Coalition: Neighbors West/Northwest, contact Darlene Urban Garrett at darlene@nwnw.org

Plan District: Northwest

Zoning: CM2d (Commercial/Mixed Use 2 zone with Design “d” overlay zone)

Case Type: AD (Adjustment Review – 2 Concurrent Adjustments)

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space. For lot lines in the CM2 zone abutting residentially zoned sites, the Portland Zoning Code requires a minimum building setback of 10 feet and a landscape buffer to the L3 standard (Section 33.130.215.B, Table 130-2). The expansion at the southeast corner of the existing building is proposed to be located as close as 6 feet from the south lot line (at the second-floor patio and first floor staircase/trash enclosure area). An existing loading area along the southwestern corner of the site is proposed to remain and a 6-foot wide pedestrian access connection is proposed along the southern edge of the site to serve as access for the building and trash enclosure area; therefore, no landscaping is proposed in this area¹. The adjacent site to the south is residentially zoned (RM1 – Residential Multi-Dwelling 1); therefore, an Adjustment is requested to reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer.

While no loading spaces are required, the applicant is proposing to modify the existing 23-foot-11-inch wide loading area located along the southern edge of the site. It is proposed to be reduced to 10 feet wide (to be consistent with the “Standard B” loading space requirements), and the remaining 13 foot – 11 inch curb cut is proposed to be closed for use as additional on street parking.² The Portland Zoning Code requires that loading spaces abutting a Residential zone be set back a minimum of 5 feet and include perimeter landscaping to the L4 standard (per Section 33.266.310.E, Table 266-8). The loading space’s location is adjacent to a residentially zoned site (RM1 – Residential Multi-Dwelling 1) to the south. An additional requirement of this standard requires that loading spaces not be located between a building and the street. While the existing loading space is not proposed to expand or be relocated, the addition is proposed to be located as close as 6 feet from the southern property line and the loading space is proposed to be 10 feet wide; this would result in the northernmost 4 feet of the loading space being located between the building and NW 28th Avenue. An Adjustment is therefore requested to reduce the residential-abutting setbacks to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street.

Note: The applicant submitted a revised plan set which reduced the southernmost outdoor seating areas so they are not located within the minimum 10-foot building setback for abutting residential lots (to the south) and expanded the width of the landscape planters areas along these areas to 4 feet to allow additional landscape buffer area.

Relevant Approval Criteria:

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

¹ The applicant is proposing a 3-foot-2-inch wide x 24.5-foot long landscape planter at the ground level, a 2.5-foot wide x 19.5-foot long landscape planter area at the southern edge of the stairway, and a 4-foot wide x 29-foot long landscape planter at the southern edge of the second-floor patio. These landscape planters are proposed within the 10-foot landscape buffer area.

² While the loading space is legally existing, it is not meeting current landscaping requirements. Development not complying with development standards must be brought into conformance or receive an Adjustment. (Loading spaces are considered “exterior development” and therefore subject to nonconforming landscaping upgrades per Section 33.258.070.D.2.b.1).

ANALYSIS

Site and Vicinity: The 10,000 square foot site is located on the southeast corner of the intersection of NW Thurman Street and NW 28th Avenue. The relatively flat site is currently developed with a 7,213 square foot single-story commercial building (an out-of-business tavern). The surrounding vicinity is developed with a mix of commercial buildings and higher density residential buildings along NW Thurman Street to the east, ranging from 1-to-3-stories. Development to the south is primarily single- and multi-dwelling residential buildings ranging from 1-to-3-stories. Development about one block to the north consists primarily of higher density multi-dwelling residential buildings ranging from 2-to-4-stories. The adjacent sites to the north, east, and west of the subject site are also zoned Commercial/Mixed Use 2 with a Design (“d”) overlay zone. The adjacent site to the south is zoned Residential Multi-Dwelling 1 (RM1), and is developed with a single-story multi-dwelling residential building with a partial second floor.

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

The Design overlay zone (“d”) ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city’s evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;
- Contribute to a public realm that encourages social interaction and fosters inclusivity in people’s daily experience; and
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **November 17, 2022**. The following Bureaus have responded as follows:

- The Portland Bureau of Transportation (PBOT) responded with no concerns regarding the Adjustment review, included information about required right-of-way improvements, and noted that reducing the existing curb cut as proposed will add an additional on-street parking space and provide additional street tree plantings (Exhibit E.1);
- The Life Safety Review Section of the Bureau of Development Services (BDS) responded with no concerns regarding the Adjustment review, and noted that a separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances (Exhibit E.2);
- The Bureau of Environmental Services (BES) responded with no concerns regarding the Adjustment review and noted that a detailed stormwater management plan will be required during building permit review (Exhibit E.3); and
- The Fire Bureau responded with no concerns and noted that a separate building permit is required for this proposal (Exhibit E.4).

The following Bureaus have responded with no concerns (Exhibit E.5):

- The Site Development Review Section of BDS; and

- The Water Bureau.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 17, 2022. Thirty-seven written responses have been received from the Northwest District Association (NWDA, Exhibit F.25) and neighboring property owners/HOAs in response to the proposal. Six responses (including the NWDA) were written in support of the proposal (See the Exhibit section at the bottom of this Decision Letter for details). The NWDA supports the project conditioned on the provision of the following measures:

1. Professional acoustic engineering review of all exterior mechanical equipment to assure acceptable operating noise levels, including the use of plantings for attenuation; and
2. An executed Good Neighbor Agreement, negotiated in good faith by the applicant and the affected neighbors, to address any anticipated operational issues arising from the proposed uses and the location of exterior public seating areas.

The remaining 31 responses were written expressing concerns about the proposal, requesting additional information about the proposal, suggesting modifications to the proposal, and/or opposing the proposal. Many of the concerns expressed by neighbors were shared and are summarized below:

- Privacy:
 - The proposed second floor drinking/dining area would be too close to the residential neighbors to south (Trolleycafe Lofts) and west, and because it is elevated, there would be privacy issues (views and noise from customers using the second-floor patio to the residents to the south, who have roof decks and skylights).
- The proposed patios are oriented toward NW 28th Ave to the west and the residential lot to the south rather than NW Thurman St to the north. A preferred design would be patios should be oriented to Thurman because this is a commercial corridor and NW 28th is more residential.
- Noise impacts:
 - Customers of the proposed business;
 - Ventilation from the kitchens;
 - Amplified or live music;
 - Trash pick-up; and
 - Deliveries/loading zone activity.
- Odor impacts:
 - Trash area;
 - Cigarette smoke; and
 - Cooking smells.
- Off-site impacts (sidewalk and surrounding areas):
 - Cigarette smoke;
 - Noise/drunken customers;
 - Tables and chairs in the sidewalk/right-of-way;
 - Vagrancy/loitering; and
 - Rodents
- Visual impacts:
 - Light pollution;
 - Loading space; and
 - Garbage.
- There could be an increase in traffic congestion and less parking availability.
- The proposed landscape planters/shrubs would not provide adequate buffer/mitigation.
- The proposal does not equally or better meet the purpose of the regulations (per Adjustment Approval Criterion A).
- The proposal would detract from the “livability and appearance” of the residential neighborhood (per Adjustment Approval Criterion B).
- The proposal would negatively impact the neighborhood character and property values.
- The scale of the project is too large/intensive:

- Too many occupants will be using the patio space, with estimates of 175-200 people in this area;
 - There will be too many restaurants/bars.
- There are maintenance concerns for the north wall of adjacent Trolley Car Lofts residential development to the south of the building.
- Granting the Adjustment would allow a roof top beer garden adjacent to a Residentially-zoned site.
- There are questions about the proposal that have not been answered by the applicant:
 - What are the hours of operation?
 - How many businesses will there be?
 - What kinds of businesses will there be?
 - What is the occupancy?
 - Will alcohol be served?
 - Will there be amplified or live music/outdoor entertainment? What will the volume be?

Applicant Response:

The applicant provided a response to neighbor comments (Exhibit A.2), which is summarized as follows:

- The applicant acknowledges compliance with the two conditions required by the NWDA.
- The scale of the proposal is far below the allowable 45-foot height and Floor Area Ratio (2.5:1 FAR and up to 4:1 FAR with bonuses). The proposed height is about 35 feet and the proposed FAR is about 1.58:1. The partial second story of the building is proposed to be set back 32 to 36 feet from the southern property line, which significantly exceeds the minimum 10-foot building setback requirement.
- Restaurants and bars are allowed in this commercial zone by right.
- Outdoor seating is proposed on the north, west, and south sides of the building. The outdoor seating area would be accessed from both NW Thurman Street through the building as well as from NW 28th Avenue, thereby connecting the two pedestrian pathways. The occupancy number of 175-200 people that was stated in the original letter written by a neighbor assumed a standing only environment and was calculated using gross square feet and did account for actual conditions where there will be space taken by tables, chairs, planters, egress walkways, etc. We anticipate the actual real world maximum capacity to be between 90-135 occupants for both the north and south outdoor areas, but the actual maximum allowed capacity stated per code will be in line with Oregon Structural Specialty Code and Fire Marshall requirements.
- The property will abide by all City sound and noise codes/ordinances as stated in Chapter 18.10.010 Maximum Permissible Sound Levels
- Regarding neighbor concerns about potential noise created by the outdoor areas on the upper level, and the impact to the roof decks of the Trolley car Lofts, it should be noted that the second-level smaller patio that is closest to the residential zone at the southeast corner of the property is only 500 sq.ft. with a seating area set back 10 feet from the property line. The finished surface elevation of the patio is about 10 feet beneath the top of the residential building's parapet, and the larger second level patio is set back 24 feet from the residential property line and has a finished surface elevation that is 8 feet lower than the top of the residential building's parapet.
- The existing 24 foot wide x 89 foot – 6 inch long paved loading zone was officially permitted (permit #395581) as a loading area in 1962, but has existed on the property since it was originally built in 1914. It has remained an active loading area over the years for both the tavern and art studio uses.
- The adjustments requested will reduce the burden on residential neighbors by allowing the waste area and electrical utility equipment to be located as far back as possible from the sidewalk frontage along NW 28th Ave, while also retaining an onsite loading area for deliveries, keeping the delivery vehicle out of the street in the way of traffic. The redefining of the existing loading area will also reduce the existing curb cut from about 26 feet down to 10 feet, thereby creating an additional on street parking space. It will also allow for the Portland General Electric (PGE) electrical equipment to be hidden

from view and placed further off the sidewalk and into the site while still meeting PGE's requirement to have the equipment to be located within 25' of a local service street for servicing access.

- The outdoor use on the southern facing patios will be closed to customer use after 10:00pm and several signs are proposed at patio entrances that state: "South outdoor areas closed to customers after 10 PM."
- The loading zone space will be used for deliveries during normal business hours.
- At this time there are no tenants identified for the space. We expect to accommodate between 6 – 10 tenants, which could range from a food vendor to artist gallery space.
- We have no plans to have any amplified music at this time, but if things were to change any music would be in accordance with Chapter 18.10.010, Maximum Permissible Sound Levels for Land Use Zones, and any anticipated noises above these levels would be done through a noise variance permit.
- The project will meet all current State and local requirements and standards governing ventilation. The trash areas is anticipated to be serviced every day or every other day depending on the amount of use at that given time.
- While there have been picnic tables historically located in the right-of-way on both Thurman St and NW 28th Ave, there are no current plans to have tables and chairs in the right-of-way. If tenants choose to place tables and chairs in the right-of-way in the future it will be done in accordance with PBOT requirements.

Staff Response:

Staff notes that this Adjustment review is requested to adjust the following development standards:

1. To reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer; and
2. To reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street.

Concerns and comments relevant to the Adjustment requests and approval criteria are located in the *Zoning Code Approval Criteria* section below.

In response to comments related to traffic, congestion, and vehicle parking availability, staff notes that parking is not required in this location (due to the retail sales and service use proposed, the lot size, and transit availability, per Section 33.266.110.B.1.b and Table 266-1); these issues are therefore not relevant to the Adjustments requested.

In response to comments that this is a residential area and the use is overly intensive for this area, staff notes that the zoning of the site is Commercial/Mixed Use 2, which allows retail sales and service uses (including restaurants and bars) by right.

In response to the concerns about how the proposal does not meet Adjustment Approval Criterion B because it detracts from "livability" and "appearance" of the area, Staff notes the wording of this approval criterion:

*If in a residential, CII, 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;***

staff notes that *livability* and *appearance* only apply to this criterion when an Adjustment request is in a Residential zone. This site is in a Commercial zone, so only the second part of Criterion B applies (shown in bold). This criterion is discussed in the *Zoning Code Approval Criteria* section below.

In response to comments regarding some neighbor's building orientation preference toward NW Thurman Street (a more "commercial" street) instead of NW 28th Avenue (a more "residential" street), staff notes that the sites directly across both streets (to the north and west, respectively) are also zoned CM2d and therefore the proposal is oriented toward commercial

zoning to the west and north. The proposal includes a main entrance along the north façade, roof patio seating at the northwest corner of the building, and roof patio seating at the southern edge and southwestern corner of the building; the proposal does not have a single orientation. The only adjacent residentially-zoned site is the RM1 zoned site to the south.

In response to the assertion that approving the Adjustment request will allow a roof patio and seating within the setback, staff notes that the applicant submitted a revised plan set which increased the width of the landscape planter areas along the southernmost seating areas (lower courtyard, stadium seating, and lower rooftop deck) to 4 feet to allow for additional landscape buffer area and to eliminate customer seating areas within the minimum 10-foot building setback for abutting residential lots. (Exhibit C.2).

In response to concerns about there being tables and chairs in the sidewalk area, staff notes that this is not part of the Adjustment requests and, in order for a business to operate in the right-of-way (i.e. sidewalk), a Healthy Businesses Permit (through PBOT) must be reviewed and approved.

Off-site impacts (including noise, odor, and glare) are regulated under Zoning Code Section 33.262.

In response to concerns about potential damage to the neighboring residential building to the south, staff notes that damage to the north wall of neighboring residential building by the proposed business, or damage of any kind, is a civil issue between owners.

ZONING CODE APPROVAL CRITERIA

33.805.040 Adjustment 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 findings for the requested setback and loading space Adjustments are found below.

Setback Adjustment

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, and add ground level and second floor patios connected via an external stairway, which requires an Adjustment to reduce the minimum 10-foot building setback to 6 feet (for commercial lots abutting residential lots) along the south lot line, and to waive the L3 landscaping buffer.

The purpose statement (relevant sections in bold) and associated findings are found below:

33.130.215 Setbacks

The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial/mixed use zones. The setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air, and the potential for privacy for adjacent residential zones.

The front setback requirements for Civic Corridors in Eastern and Western pattern areas provide opportunities for additional pedestrian space and separation from the vehicle traffic along these major streets to create an environment for building users and pedestrians that is less impacted by close proximity to traffic, and provide opportunities for front landscaping reflective of the vegetated characteristics of these neighborhood pattern areas.

The minimum building setbacks along local service streets adjacent to residential zones work together with requirements for step downs in building height (33.130.210.B.2.b.) to ensure that there is a transition in street frontage characteristics to lower scale residential zones. In these situations, the building setback regulations promote street frontages with landscaping and residential uses to provide a transition and a cohesive street environment with similar street frontage characteristics on both sides of the street, and limit exterior display and storage to minimize impacts to nearby residentially-zoned areas.

At the ground level, the proposed building addition at the southeast corner of the site is set back 6 feet from the south lot line for a 6-inch length (partially enclosing and screening the electrical meter area), 8 feet from the south lot line for a 14-foot length (along the north edge of the electrical meter area) and 10 feet from the south lot line for a 34-foot length (at the back of the trash area) (as shown in Exhibit C.2). At the second level “lower rooftop deck,” the building addition is cantilevered over the trash area and electrical meter area and is uniformly 6 feet from the south lot line. A stairway and stadium seating are located to the west of this second level open patio. A ground level open patio (including a “lower courtyard” and “upper courtyard”) area is also proposed. Four-foot-wide planter boxes are proposed along the southern edges of the lower courtyard, stadium seating, and lower rooftop deck to provide a buffer between the customer area and the adjacent residential building. A 6-foot-wide access area (for trash pickup, electric meter access, and deliveries) is proposed along the southern edge of the site.

The residential building adjacent to the project to the south (Trolley car Lofts) includes a solid brick wall at its north façade. The northern facade of Trolley car Lofts is located zero feet from the shared lot line with the subject site. While there are no doors or windows along its northern edge, the 6 units within have partial roof patios. The second level patio of the proposed commercial development includes a smaller patio that is closest to the residential zone, which has a finished surface elevation about 10 feet beneath the top of Trolley car Loft’s parapet, and a larger second level patio which is set back 24 feet from the residential property line and has a finished surface elevation that is 8 feet lower than the top of the parapet (see Exhibit A.2, page 4). Because the second level patios are significantly lower than the Trolley car Lofts parapet, privacy to the residents of Trolley car Lofts will be promoted.

As noted in the *Proposal* section above, the applicant has revised their proposal to reduce the lower courtyard, stadium seating, and lower rooftop deck areas so they are no closer than 10 feet from the south lot line and to include 4-foot wide landscape planters with evergreen shrubs to form a screen 6 feet high. The wider landscaping area and reduced seating area will increase separation and provide additional privacy for Trolley car Lofts, and improve the overall site appearance.

While a full 10 feet of L3 landscape buffer is not proposed (due to access needs and design choices), one new small tree is proposed at the ground level and a 4-foot-wide landscape buffer (via planter boxes) will be provided along the southern edge of the lower courtyard, stadium seating, and lower rooftop deck areas. The planter height is proposed at 2 feet and, when combined with proposed 6-foot-tall shrubs, the vegetation will sit about 8 feet above the patios along the southern edge, where the building setback adjustment is requested. The proposed landscape includes evergreen shrubs to

provide year-round screening. Combined with the revised floorplans which do not provide customer seating within 10 feet of the southern lot line, the landscaping will further promote privacy and provide a transition to the neighboring residences to the south. It will also improve the appearance of the site by providing additional landscaping, as the current development has no landscaping. A condition of approval will require that the landscaped buffer areas along the southern edge of the seating areas (upper courtyard, lower courtyard, stadium seating, and lower rooftop deck) be continuously maintained in a healthy manner. Plants that die must be replaced in kind. A fine may be levied if the landscaping has not been maintained, and new plants required to be planted (to be consistent with Zoning Code Section 33.248.040 Landscaping and Screening Maintenance).

The proposed development is located to the north of the residential property thereby not compromising TrolleyCar Lofts' southern exposure and access to sunlight. Additionally, as noted above, the second level patio area has a finished surface elevation about 10 feet beneath the top of TrolleyCar Loft's parapet, thereby not compromising residential access to light.

As noted above, the southeastern section of the addition is proposed as close as 6 feet to the southern (residentially abutting) property line; however, about 50 feet of the 100-foot length of the southern façade is over 23 feet from the southern lot line, which is a substantial increase in distance over the 10-foot minimum building setback. The average southern façade setback is about 15 feet from the south lot line.

The setback purpose statement works together with the step-down building height requirements but, in this case, there is no step-down height required for the abutting residentially zoned lot line to the south. The maximum height of the structure, including the proposed partial second story addition is about 35-feet, which is about 22 percent lower than the maximum allowed 45-foot building height (Table 130-2). Furthermore, the southernmost 18 feet of the building, where the second level patio is proposed, is only about 14 feet in height. The partial second story addition is proposed to be set back 32 to 36 feet from the southern property line, a substantial distance beyond the minimum 10-foot building setback requirement. The proposed FAR is about 1.58:1 which is significantly lower than the maximum allowed FAR of 2.5:1 in this zone. The significantly reduced height and FAR results in an overall building scale reduction, which will help provide a transition to the adjacent TrolleyCar Lofts development and will also help maintain light and air for residents of this building.

The Fire Bureau has reviewed the request for reduced building setback and offered no concerns with regards to separation for fire protection, or access for firefighting.

Loading Space Adjustment

A second Adjustment is requested to reduce the residential-abutting setbacks for a loading space from 5 feet (landscaped to the L4 standard) to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street. The relevant purpose statements and associated findings are found below:

33.266.310 Loading Standards

A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way.

While the loading space is legally existing, loading spaces are considered “exterior development” and therefore subject to nonconforming landscaping upgrades³, which means that if upgrades cannot be provided to meet current Zoning Code standards (i.e. setback and landscaping requirements), approval through an Adjustment review is required. The existing approximately 24-foot-wide x 90-foot-long paved loading area along the southern edge of the site is proposed to be reduced to 18 feet x 10 feet. As noted above, PBOT responded with no concerns regarding the Adjustment review and noted that reducing the existing curb cut as proposed, from about 24 feet to 10 feet, will add an additional on-street parking space and provide additional street tree plantings (Exhibit E.1).

The northernmost 4 feet of the loading space is proposed to be located between the southernmost building addition and the street, which – when occupied by a loading vehicle – will obscure only about 4% of the 96-foot-wide western building facade. The loading space is located along the southern property line and is connected to the 6-foot access area proposed at the south edge of the site. If the loading area was located anywhere else on site, it would obscure more of the building facade. New landscaping planters are proposed along the entire north edge and 4-foot-long portion of the east edge of the loading space. These planters will include one new small tree and, as noted above, 6-foot-tall evergreen shrubs for year-round screening. Additional new landscape planters (described above) are proposed within the former 24-foot-wide x 90-foot-long paved loading area. These features will help improve the appearance of the loading area and overall site.

As conditioned, 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 subject site is in a Commercial zone. At this location, the City’s Transportation System Plan classifies NW 28th Avenue as a Local Service Street and NW Thurman Street as a Neighborhood Collector, Transit Access Street, and City Bikeway. PBOT has indicated no concerns regarding the proposal’s consistency with the classification of adjacent streets.

Desired character of area

“Desired character” is defined in Zoning Code Chapter 33.910:

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.*

Pursuant to this definition, the desired character of this site is determined by the character statement of the CM2 zone, the purpose statements of the Design Overlay Zone and the Northwest Plan District, the Portland Citywide Design Guidelines, and the [Northwest District Plan](#).

CM2 zone

The character statement for the CM2 zone is in Zoning Code Section 33.130.030.C:

The Commercial/Mixed Use 2 (CM2) zone is a medium-scale zone intended for sites in a variety of centers, along corridors, and in other mixed use areas that have

³ Because the project valuation exceeds \$1 Million, nonconforming upgrades are required for this project.

frequent transit service. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to four stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, provide a strong relationship between buildings and sidewalks, and complement the scale of surrounding residentially zoned areas.

The Adjustment requests are to reduce the building and loading area setbacks and landscaping requirements along a residential-abutting lot line and to allow a portion of the loading area to be between the building addition and the street. As noted above, the addition proposed within the setback is a single-story addition with a roof patio which sits about 10 feet below Trolley car Loft's parapet, and landscape screening via planter boxes along the southern edge of the patio. The proposal includes only a partial second-story addition, which will be well under the maximum four stories, and will therefore complement the scale of surrounding residentially zoned areas. The paved and legally existing loading area along the southern edge of the site is proposed to be significantly reduced/narrowed, which will add an additional on-street parking space.

The proposed additions, patios, and loading area will be consistent with the CM2 zone's intentions of providing commercial uses with limited off-site impacts in an area with transit service (Including TriMet bus Line 26 along Northwest Thurman). The pedestrian-oriented development will be supportive of transit.

For these reasons, staff finds the proposal is consistent with the character statement for the CM2 zone.

Design Overlay Zone

The site is in the Design overlay zone, the purpose for which is in Zoning Code Section 33.420.010:

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- *Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;*
- *Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and*
- *Promotes quality and long-term resilience in the face of changing demographics, climate and economy.*

Rather than demolishing the existing commercial building, the applicant is proposing a renovation which will include 9 new, full-story ground floor windows along the north and west facades (currently windowless), new outdoor patios (including roof patios), and a partial second story. The new windows, as well as the proposed restaurants, indoor seating, and outdoor patio seating will encourage social interaction and foster inclusivity in people's daily experience and allow for year-round use regardless of the climate. While the 10-foot minimum building setback is proposed to be reduced to 6 feet, the applicant is providing a 10-foot distance (4 feet of which must be landscaped as described above) between the outdoor patio seating areas and the neighboring residential building to the south in order to build on the unique context of this site: a commercially zoned corner lot with an existing commercial building adjacent to residential zoning/development to the south.

Trash, delivery, and electric utility access are proposed at the southeast corner of the site where these areas will remain out of public view and away from the street facing façades. Unlike typical brick and mortar restaurants, the applicant is proposing 6 – 10 tenants, which could range from food vendors to artist gallery spaces (as noted in Exhibit A.2). By allowing multiple tenants with a range of retail sales and service uses, the commercial building should have flexibility for changing tenants and smaller scale restaurants and will therefore promote long-term resilience in the face of changing demographics and economy.

For these reasons, staff finds the proposal is consistent with the purpose statement for the Design overlay zone.

Northwest Plan District

The Northwest Plan District purpose statement can be found in Zoning Code Section 33.562.010:

The Northwest plan district implements the Northwest District Plan, providing for an urban level of mixed-use development including commercial, office, housing, and employment. Objectives of the plan district include strengthening the area's role as a commercial and residential center. The regulations of this chapter:

- *Promote housing and mixed-use development;*
- *Address the area's parking scarcity while discouraging auto-oriented developments;*
- *Enhance the pedestrian experience;*
- *Encourage a mixed-use environment, with transit supportive levels of development and a concentration of commercial uses, along main streets and the streetcar alignment; and*
- *Minimize conflicts between the mixed-uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary*

The proposed commercial development will achieve the Northwest Plan's objective of creating an urban level of mixed-use development. Along the north edge of the site, NW Thurman Street is classified as a "main street" (Portland Zoning Code per Map 562-7). The proposed renovation and additions will support a mix of different retail sales and service uses on a site with transit access and will therefore encourage transit supportive levels of development and a concentration of commercial uses along a main street. The proposal will also help strengthen the area's role as a commercial and residential center by providing additional commercial uses in an area with existing low, medium, and higher-density residential development. The proposed commercial building additions and renovations will enhance the pedestrian experience by including multiple retail sales and service options in a single building and providing outdoor patios.

As noted above, parking is not required for the proposal or relevant to the Adjustment request. No conflicts are anticipated between the mixed uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary.

For these reasons, staff finds the proposal is consistent with the purpose statement for the Northwest Plan District.

Portland Citywide Design Guidelines

The Portland Citywide Design Guidelines consist of a set of guidelines for design cases in community planning areas outside of the Central City. The Portland Community Design Guidelines focus on three tenets: **Context**, balancing the aspirations of the future desired character with today's setting; **Public Realm**, strengthening a building and site's relationship with the public rights-of-way and open spaces; and **Quality and**

Resilience, underscoring holistic site and building designs that benefit people and climate.

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

02: Create positive relationships with surroundings.

Possible design approaches may include, but are not limited to:

- *Building Massing – Developing effective placement and proportion of building massing toward adjacent lower-scale development and residential uses; and*
- *Street Wall – Maintaining a vibrant street wall with continuous storefronts along historic main streets.*

03: Integrate and enhance on-site features and opportunities to contribute to a location's uniqueness.

Possible design approaches may include, but are not limited to:

- *On-site older buildings and historic resources – retaining existing older buildings and historic resources; and*
- *Social and cultural significance – Incorporating a site's significant cultural or social history*

As noted above, the southeastern section of the addition is proposed as close as 6 feet to the southern property line; however, about half of the southern façade is much farther away, which helps offset the building's overall massing. The height of the proposed building (ranging from 14 to 35 feet) is 10 feet lower than the 45-foot height limit. The patio closest to the southern lot line sits about 10 feet lower than the top of Trolleycar Loft's parapet. The reduced massing and height and the step-down building design from north to south help provide a transition to the adjacent multi-dwelling development to the south.

As noted above, the applicant is proposing renovations and additions rather than demolishing the existing commercial building. The building design preserves the historic eastern half of the north façade (facing NW Thurman Street), which has special features including a corbeled brick parapet, entablature, large store windows and transom windows, and a decorative belt course above the windows (see Adjustment Criterion D below for additional information about the historic resource) and adds large ground floor windows along the remaining windowless portions of the north and west facades, strengthening the storefront connection to the commercial corner of NW Thurman Street and NW 28th Avenue.

The paved and legally existing loading area along the southern edge of the site (approximately 24-foot-wide x 90-foot-long) has been in use for over 60 years. As part of this Adjustment request, it is proposed to be reduced to an area of 18 feet x 10 feet. As noted above, PBOT responded with no concerns regarding the Adjustment review and noted that reducing the existing curb cut as proposed, from about 24 feet to 10 feet, will add an additional on-street parking space and provide additional street tree plantings.

05: Provide opportunities to pause, sit, and interact.

Possible design approaches may include, but are not limited to:

- *Seating – providing a variety of seating types for passersby and building users;*
- *Enclosure - Offering a comfortable buffer and distinction from the public realm; and*
- *Trees and Landscaping - Promoting health and wellness by helping to mitigate the effects of urban heat island.*

In addition to indoor seating, several different outdoor patio spaces are proposed to support the restaurant or other uses, including lower and upper “courtyards” at the ground level, a “stadium seating” area adjacent to the external stairway, which leads up to a “lower rooftop deck” and a “back rooftop deck” at the south side of the building (per

Exhibit C.2 Floorplans). A covered patio is also proposed at the northwest corner of the second floor. The terraced, connected outdoor areas will provide a variety of seating types for customers and will be connected to the interior spaces via entrance doors. An elevator is also proposed at the south edge of the second story addition for improved accessibility.

There is currently no landscaping on site. As noted above, one new small tree is proposed at the ground level and 4-foot-wide landscape planters with evergreen shrubs to form a 6-foot-high screen will be provided along the southern edge of the outdoor seating areas. Additional landscape planters are proposed outside of the setback area ranging from 3-feet-2-inches-wide (at the ground level between the upper courtyard and the loading space) to 2.5-feet-wide (at the south and west edges of the back rooftop deck). The landscaping will offer a comfortable buffer and distinction from the public realm and will also promote privacy and provide a transition to the neighboring residences to the south. The landscaping will also promote health and wellness by helping to mitigate the effects of urban heat island.

For these reasons, staff finds the proposal is consistent with the Portland Citywide Design Guidelines.

Northwest District Plan

The Northwest District Plan is intended to guide public and private decision-making and investment in the Northwest District. The plan provides policy direction in a number of key areas including land use, urban design, transportation, housing, and economic development. Staff has considered all objectives and has addressed only those considered applicable to this project. The subject site is classified as a *Streetcar Main Street* site (Map 4, Page C-15) and the *Desired Characteristics and Traditions* of these Streetcar Main Street sites are as follows:

The Streetcar Era structures that define the character of the main streets, portions of which are located within the Alphabet Historic District, should be preserved or adaptively reused. New development should incorporate architectural features that characterize the district's main streets, such as large storefront windows, awnings and upper-story residences, and should continue the historic pattern of a continuous frontage of buildings and active uses located close to sidewalks. Large retail developments should be integrated into the main streets' fine grain urban pattern and mix of uses through strategies such as including spaces suitable for small tenants along street frontages or by including upper-floor residences. Where appropriate, development should include outdoor space for dining and other activities that contribute to a vibrant urban environment. Disruptions to the continuity of the main street pedestrian environment by curb cuts, driveways, garage fronts and surface parking areas should be avoided. (Page C-18)

The open courtyard spaces at the south side of the building will provide active outdoor space for dining and a direct connection to the NW 28th Avenue right-of-way. The north and west facades of the existing building are zero feet from the sidewalks along NW Thurman Street and NW 28th Avenue, and will remain in this location. New, large, storefront windows are proposed to be added at the northwest corner of the building while retaining the historic character of the building (see Adjustment Criterion D below for additional information about the historic resource). The existing loading space curb cut is proposed to be reduced, which will add an additional on-street parking space and provide additional street tree plantings.

Land Use Objectives (Page E-6)

C. Concentrate a mix of higher intensity residential and commercial development along main streets and the Portland Streetcar line.

D. Reinforce main streets and the Portland Streetcar line as the focus for retail activity in the District.

Business and Economic Development Objectives (Page E-34)

- B. Encourage commercial development that is oriented to pedestrians.*
- E. Encourage new commercial development and job creation opportunities to locate along main streets, the Portland Streetcar line, and close to the I-405 freeway.*

Urban Design Objectives (Page E-38)

- A. Integrate new development with the existing urban fabric by acknowledging the scale, proportions, orientation, quality of construction and other architectural and site design elements of the building's immediate area.*

Thurman-Vaughn Subarea⁴ Objectives (Page E-70)

- A. Enhance NW Thurman Street as a neighborhood-oriented main street that is primarily residential, with commercial uses clustered at intersections.*

The proposed multi-tenant, retail sales and service use building would concentrate higher intensity commercial development at NW Thurman Street (which is classified as a *Main Street*) and would reinforce this street/intersection as a focus for retail activity in the Northwest District. The outdoor terraced seating areas with immediate access from the NW 28th Avenue sidewalk would encourage development that is oriented to pedestrians. Rather than proposing a demolition of the existing building, the applicant is proposing a renovation, which will maintain the historic character of the building while providing an appropriately scaled expansion.

For these reasons, staff finds the proposal is consistent with the purpose statement for the Northwest District Plan.

For all the reasons listed above, staff finds this proposal is consistent with the desired character of the area.

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:

As noted above, the character statement for the CM2 zone is:

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

As noted above, under Criterion B, the Adjustment requests are to reduce the building and loading area setbacks and landscaping requirements along a residential-abutting lot line. The addition proposed within this setback is a single-story addition with a roof patio which sits about 10 feet below Trolleycar Loft's parapet, and landscape screening via planter boxes along the southern edge of the patio. The proposal includes only a partial second-story addition, which will be well under the maximum four stories, and will therefore complement the scale of surrounding residentially zoned areas.

⁴ Per Map 5 (Page E-3), the subject site is identified as being in the Thurman-Vaughn Subarea.

While both Adjustment requests are to reduce residential-abutting setbacks and landscaping, the loading area is legally existing along the southern edge of the site, and is proposed to be significantly reduced and narrowed. Allowing a loading space to remain at zero feet from the residential-abutting lot line will not affect the scale of the proposed development on the adjacent residentially zoned site, and may reduce off-site impacts by adding an additional on-street parking space and allowing deliveries and maintenance to happen on-site rather than blocking NW 28th Avenue.

Because of the reduced height and scale of the overall building, and because of the loading area reduction and limited impacts, cumulative effects will be minimal and the proposed additions, patios, and loading area will be consistent with the CM2 zone's intentions of providing pedestrian-oriented commercial uses with limited off-site impacts in an area with transit service.

For these reasons, staff finds the proposal is consistent with the character statement for the CM2 zone.

This criterion is met.

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

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. This site is marked with a dot and designated as a “documented resource.” The existing building was originally built between 1914 and 1921 and is classified as an eligible/contributing building in the Historic Resource Inventory. The eastern half of the Thurman Street façade has a corbeled brick parapet, entablature, and a decorative belt course above the windows. Additional special features include large store windows and transom windows. These features will all be retained. Much of the exterior façade has been remodeled with new doors, windows, asphalt siding, and plywood. While the partial second-story addition will change the appearance of this façade, the roof profile at the historic portion of the building (described above), will remain as is, thus preserving the historically significant features of the front (north) façade.

As noted above in Criterion B, large, ground-floor windows along the remaining windowless north and west facades are proposed. Much of the original siding on this non-historically contributing section of the building is brick but was covered up by vertically clad composite material. This composite material will be removed, and brick will be repaired/replaced as necessary. This brick siding at the ground level will better match the historically significant front façade and help unify the building's design.

This criterion is met.

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

Findings:

While an Adjustment is requested to reduce the minimum residential-abutting (south) building setback from 10 feet to 6 feet at the southeastern addition to the building, the significantly reduced height and FAR (described under Criterion A above) reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.

While a full 10 feet of L3 landscape buffer is not proposed, one new small tree is proposed at the ground level and 4-foot-wide landscape planters will be provided along the southern edges of the “lower rooftop deck” and “lower courtyard” seating areas with 6-foot-tall evergreen shrubs. Combined with the revised floorplans which do not provide customer seating within 10 feet of the southern lot line, the landscaping will promote

privacy and provide a transition to the neighboring residences to the south. It will also add landscaping to a currently barren site. A condition of approval will require that the landscaped buffer areas be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

In order to address neighbor concerns about customer noise on the patios, particularly at night, the applicant has proposed a new gate/fence at the southwestern edge of the site to limit access when the business is closed (to be in compliance with City of Portland zoning and building code requirements) and signage at all patio access doors (2 on the ground level and 2 at the upper level) stating: "South outdoor areas closed to customers after 10 PM."

As conditioned, 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 Map with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, this criterion is not applicable.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space. Two Adjustments are requested to:

1. reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer; and
2. reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street (NW 28th Avenue).

While an Adjustment is requested to reduce the minimum residential-abutting (south) building setback from 10 feet to 6 feet at the southeastern addition to the building, about half of the southern façade is over 23 feet from the southern lot line, which is a substantial increase in distance over the 10-foot minimum building setback, and helps offset the building's overall massing. Additionally, the maximum height of the structure, including the proposed partial second story addition is approximately 35-feet, which is substantially lower than the maximum allowed 45-foot building height. Furthermore, the southernmost 18 feet of the building, where the second level patio is proposed, is only about 14 feet in height, and sits about 10 feet lower than the top of Trolleycar Loft's parapet. The partial second story addition is proposed to be set back 32 to 36 feet from the southern property line, resulting in a step-down building design from north to south. The significantly reduced height and FAR (compared to what the CM2 zone allows) reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.

While a full 10 feet of L3 landscape buffer is not proposed, one new small tree is proposed at the ground level and 4-foot-wide landscape planters with 6-foot-tall evergreen shrubs will be provided along the southern edge of the seating areas where the building setback and landscaping adjustment is requested. Combined with the revised floorplans which do not provide customer seating within 10 feet of the southern lot line, the landscaping will promote privacy and provide a transition to the neighboring residences to the south. It will also improve the appearance of the site by providing additional landscaping, as the current development has no landscaping. A condition of approval will require that the landscaped buffer areas be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

The existing 24-foot-wide x 90-foot-long paved loading area along the southern edge of the site is proposed to be reduced to 18 feet x 10 feet. PBOT responded with no concerns regarding the Adjustment review and noted that reducing the existing curb cut as proposed, from about 24 feet to 10 feet, will add an additional on-street parking space and provide additional street tree plantings. The northernmost 4 feet of the loading space is proposed to be located between the southernmost building addition and the street, which will obscure only about 4% of the western building facade. The loading space is located along the southern property line and is connected to the 6-foot access area proposed at the south edge of the site. If the loading area was located anywhere else on site, it would obscure more of the building façade. New landscaping planters are proposed along the entire north edge and a portion of the east edge of the loading space, as well as within the existing 24-foot-wide x 90-foot-long paved loading area. These features will help improve the appearance of the loading area and overall site.

The “desired character” of this site is determined by the character statement of the CM2 zone, the purpose statements of the Design Overlay Zone and the Northwest Plan District, the Northwest District Plan, and the Portland Citywide Design Guidelines.

- The proposed additions, patios, and loading area will be consistent with the CM2 zone’s intentions of providing commercial uses with limited off-site impacts in an area with transit service.
- Rather than demolishing the existing commercial building, the applicant is proposing a renovation which will include 9 new, full-story ground floor windows along the (currently windowless) north and west facades, and new indoor dining and outdoor patio seating, which will encourage social interaction and foster inclusivity in people’s daily experience and allow for year-round use regardless of the climate. Trash, delivery, and electric utility access are proposed at the southeast corner of the site where these areas will remain out of public view and away from the street facing façades. By allowing multiple tenants with a range of retail sales and service uses, the commercial building should have flexibility for changing tenants and smaller scale restaurants, and will therefore promote long-term resilience in the face of changing demographics and economic conditions. For these reasons, staff finds the proposal is consistent with the purpose statement for the Design Overlay Zone.
- The proposal will include a mix of different retail sales and service uses on a site with transit access and will therefore encourage a concentration of commercial uses along NW Thurman (classified as a “main street”), strengthen the area’s role as a commercial and residential center, and enhance the pedestrian experience. For these reasons, staff finds the proposal is consistent with the purpose statements for the Northwest Plan District and the Northwest District Plan.
- The building design preserves the historic portions of the north façade and adds ground floor windows along the remaining portions of the north and west facades, strengthening the storefront connection to the commercial corner of NW Thurman Street and NW 28th Avenue. The proposed indoor and outdoor dining areas will provide a variety of seating types for customers and will be connected externally via stairways and internally via entrance doors. An elevator is also proposed at the south edge of the second story addition for improved accessibility. The proposed landscaping will offer a comfortable buffer and distinction from the public realm and promote health and wellness by helping to mitigate the effects of urban heat island. For these reasons, staff finds the proposal is consistent with the Portland Citywide Design Guidelines.

Because of the reduced height and scale of the overall building, and because of the loading area reduction and limited impacts, cumulative effects will be minimal and the proposed additions, patios, and loading area will be consistent with the CM2 zone's intentions as stated above.

The existing building was originally built between 1914 and 1921 and is classified as an eligible/contributing building in the Historic Resource Inventory. The eastern half of the Thurman Street façade has a corbeled brick parapet, entablature, and a decorative belt course above the windows. Additional special features include large store windows and transom windows. These features will all be retained. While the partial second-story addition will change the appearance of this façade, the roof profile at the historic portion of the, will remain as is, thus preserving the historically significant features of the front façade. Much of the original siding on this non-historically contributing section of the building is brick but was covered up by vertically clad composite material. This composite material will be removed, and brick will be repaired/replaced as necessary. The brick siding will better match the historically significant front façade and, along with the new ground floor windows, will help unify the building's design.

Impacts resulting from the Adjustments are mitigated to the extent practical as follows:

- The significantly reduced height and FAR reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.
- Customer seating will not be provided within 10 feet of the southern lot line
- The landscaping will promote privacy, provide a transition to the neighboring residences to the south, and improve the appearance of the site.
- In order to address neighbor concerns about customer noise on the patios, particularly at night, the applicant has proposed a new gate/fence at the southwestern edge of the site to limit access when the business is closed and signage at all patio access doors (2 on the ground level and 2 at the upper level) stating: "South outdoor areas closed to customers after 10 PM."

The proposal meets the applicable approval criteria and approval is therefore recommended.

ADMINISTRATIVE DECISION

Approval of 2 Adjustments to:

1. reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer(Section 33.130.215.B, Table 130-2); and
2. reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street (NW 28th Avenue) (Section 33.266.310.E, Table 266-8)

as part of a larger proposal to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space, per the approved plans and elevations, Exhibits C-1 through C-3, signed and dated February 28, 2023, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 22-159396 AD." All requirements must be graphically represented on the site plan, landscape, or other required plans and must be labeled "REQUIRED."

- B. The landscaped buffer areas along the southern edge of the seating areas (upper courtyard, lower courtyard, stadium seating, and lower rooftop deck, as shown on Exhibit C.2) must be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

Staff Planner: David Besley



Decision rendered by: _____ **on February 28, 2023.**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 3, 2023

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

Procedural Information. The application for this land use review was submitted on July 1, 2022, and was determined to be complete on October 31, 2022.

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 July 1, 2022.

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 requested that the 120-day review period be extended a maximum 245 days. **The 365-day extended review period (120 days + 245 day extension) will expire on: October 31, 2023.**

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 decision 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.

Appealing this decision. This decision may be appealed to the Adjustment Committee, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on March 17, 2023. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this**

decision. If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

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

Unless appealed, the final decision will be recorded after **March 17, 2023** by the Bureau of Development Services.

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

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

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

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

Applying for your permits. A building permit, occupancy permit, or development permit 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.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

- A. Applicant submittal:
 - 1. Narrative
 - 2. Response to neighbors
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Floor Plans (attached)
 - 3. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Life Safety Section of BDS
 - 3. Bureau of Environmental Services
 - 4. Fire Bureau
 - 5. Bureaus responding with no concerns (Site Development Section of BDS and Water Bureaus)
- F. Correspondence:
 - 1. Elizabeth Rusch, 11/14/22, support letter
 - 2. Mary DeVries, 12/8/22, opposition letter
 - 3. John and Jo Ann Utz, 12/5/22, opposition letter
 - 4. Claire Hanway, 12/5/22, support letter
 - 5. Peter Beninato, 12/5/22, opposition letter
 - 6. Mike Kirk, 12/5/22, support letter
 - 7. Tom Barbara, 12/7/22, opposition letter
 - 8. Richard Hicks, 12/7/22, opposition letter
 - 9. Linda Walton, 12/7/22, opposition letter
 - 10. Greg Passmore, 12/7/22, support letter
 - 11. John DeVoe, 12/7/22, opposition letter
 - 12. Susie Stragnell, 12/7/22, opposition letter
 - 13. Glenn and Deanna Ford, 12/7/22, opposition letter 12/7/22, opposition letter
 - 14. Reinier Warschauer, 12/7/22, opposition letter
 - 15. Lisa Taaffe, 12/7/22, opposition letter
 - 16. Izhak Shafran, 12/7/22, opposition letter
 - 17. Sue Galatz, 12/8/22, opposition letter 2/8/22, opposition letter
 - 18. Greg Simons and Anne Harris, 12/8/22, opposition letter
 - 19. Shelley Jordan, 12/8/22, opposition letter
 - 20. Martin Davidson, 12/8/22, opposition letter
 - 21. Joni Marie Johnson, 12/8/22, opposition letter
 - 22. Gayle Kvernland, 12/8/22, opposition letter
 - 23. Patrick Kehoe, 12/8/22, opposition letter
 - 24. James Thompson, 12/8/22, opposition letter
 - 25. Northwest District Association (NWDA), 12/8/22, support letter
 - 26. Lisa Selman, 12/8/22, opposition letter
 - 27. David Greenstein, 12/8/22, opposition letter
 - 28. Olivia Horgan, 12/8/22, opposition letter
 - 29. Jim McAdoo/TLHOA , 12/8/22, opposition letter
 - 30. Mark Samuel and Wanda Meyer-Price, 12/8/22, opposition letter
 - 31. Bob Clay, 12/8/22, opposition letter
 - 32. Susan Stone, 12/8/22, opposition letter
 - 33. Regna Merritt, 12/8/22, opposition letter

34. Elliot Levin, 12/8/22, opposition letter
35. Jill Walworth, 12/8/22, opposition letter
36. Ernest Cooper, 12/8/22, support letter
37. Stacey Vallas, 12/8/22, opposition letter

G. Other:

1. Original LU Application and Receipt
2. Incompleteness determination letter, dated July 28, 2022
3. Request for Extension of 120-Day Review Period signed by applicant, dated January 2, 2023

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).

***This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.**



- ## SITE PLAN

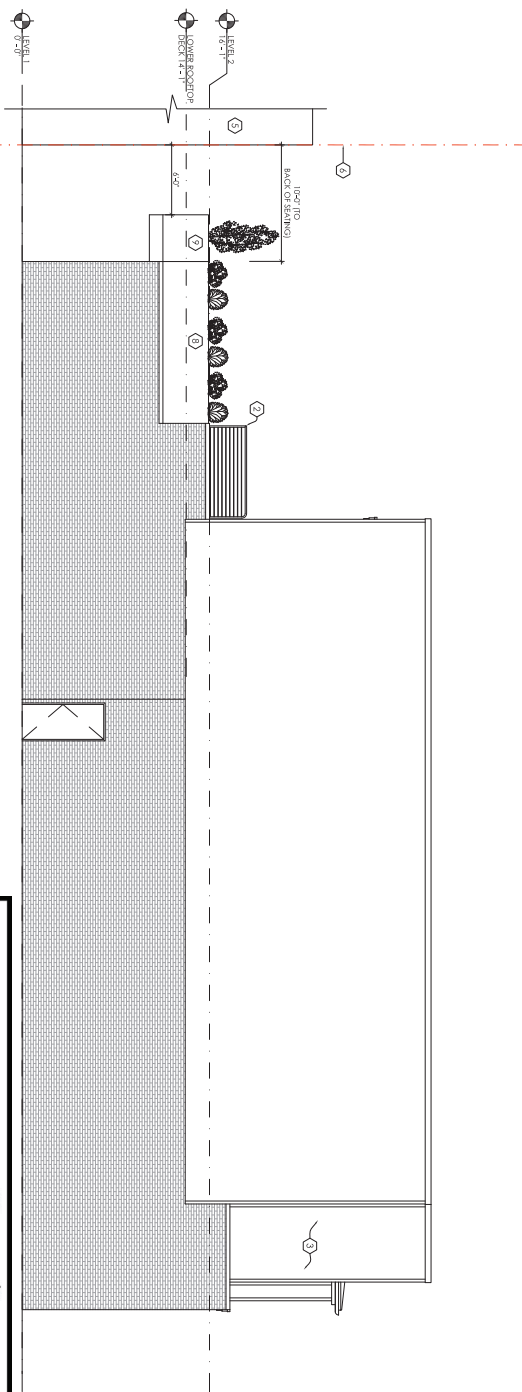
Zoning Adjustment
February 7, 2023
Thurman Food Hall
724-2788 NW Thurman St.
Portland, OR

INTECATE
ARCHITECTURE & PLANNING
www.intecarch.com
©Intec Architecture Planning, LLC

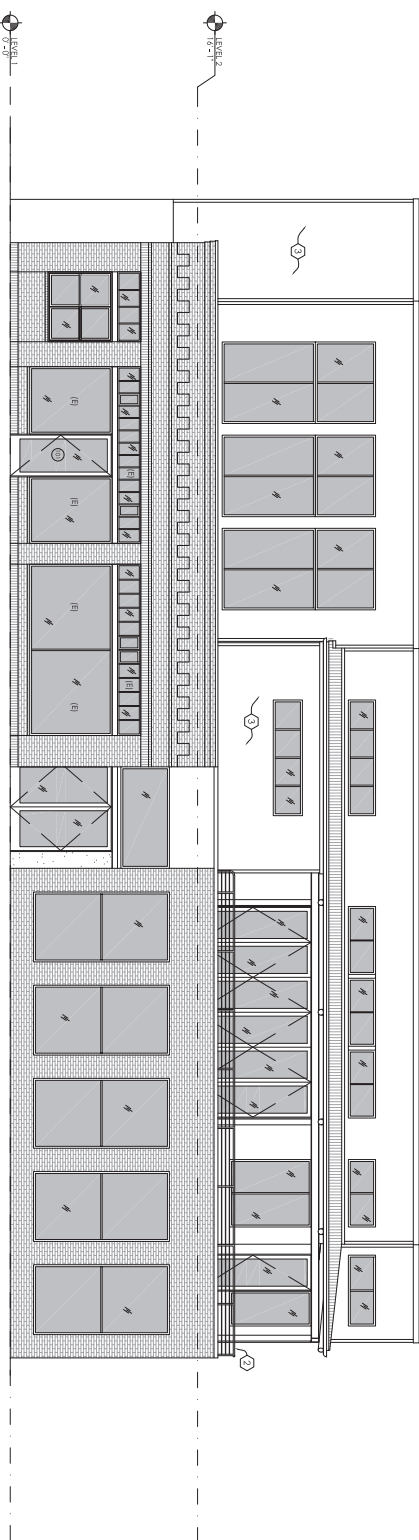
A1.1

Zoning Adjustment
February 7, 2023
Thurmon Food Hall
2774-2788 NW Thurmon St.
Portland, OR

1 EAST B
3/16" = 1'-0"



2
NORT
3/16" = 1'-0'



Approved
City of Portland
Bureau of Development Services
Planner **David Besley**
Date **2/28/23**

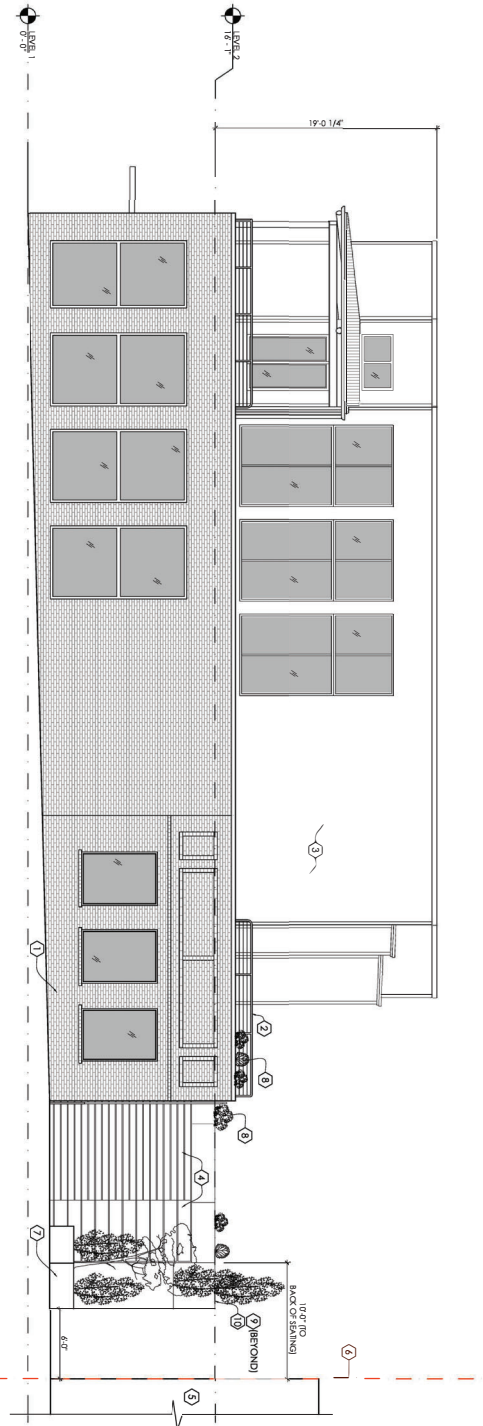
EXTERIOR ELEVATIONS

A3.1

Ex. C.3
LU 22-159396 AD

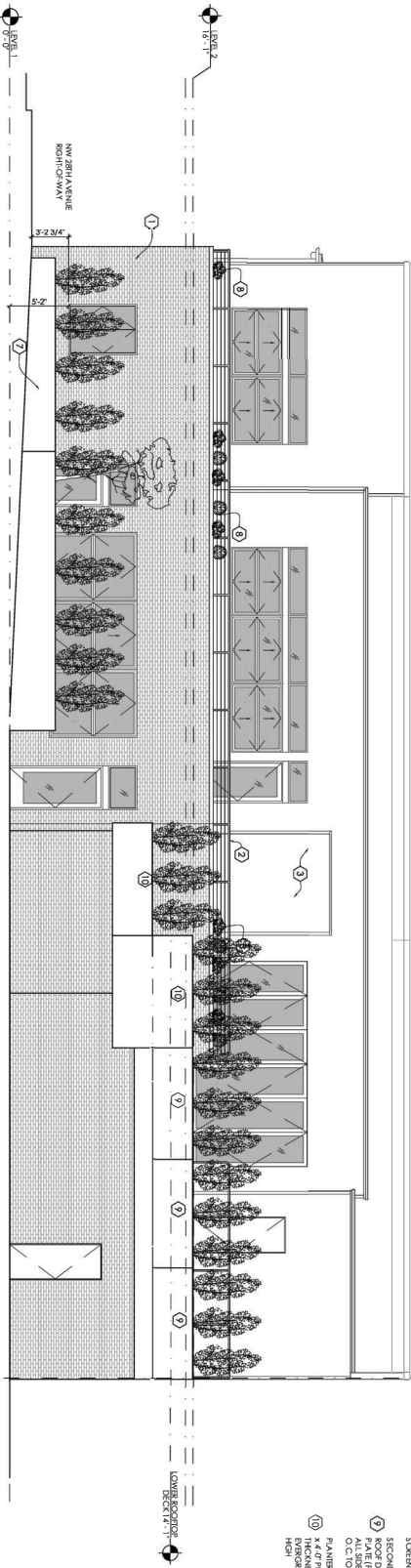
INTEGRATE
ARCHITECTURE & PLANNING
www.integratearch.com
©Integrate Architecture & Planning, LLC

- [illegible]



1 WEST ELEVATION
3/16" = 1'-0"

Approved
City of Portland
Bureau of Development Services
Planner **David Besley**
Date **2/28/23**
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



2 SOUTH ELEVATION
3/16" = 1'-0"

KEY NOTES

- 1 EXISTING MASONRY WALL
- 2 BALCONY GLAZING WALL
- 3 NEW SECOND FLOOR WALLS BEYOND
- 4 NEW STAIR AND BALCONY TO SECOND FLOOR BALCONY AREA ABOVE
- 5 EXISTING TROUBLE COW LOT BUILDING ADJACENT TO SOUTH SIDE OF SITE SEE EXHIBIT 2
- 6 SOUTH PROPERTY LINE
- 7 NEW LANDSCAPE PLANTER 2' METAL PLATE 18\"/>

Exh. C.3
LU 22-159396 AD

EXTERIOR ELEVATIONS

Zoning Adjustment
February 7, 2023
Thumson Food Hall
2774-2798 NW Thurmon St.
Portland, OR

A3.2

INTEGRATE ARCHITECTURE & PLANNING
www.integratearch.com
© 2023 Integrate Architecture & Planning, LLC



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

Carmen Rubio, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7310
TTY: (503) 823-6868
www.portland.gov/bds

Date: March 23, 2023
To: Interested Persons
From: David Besley, David.Besley@portlandoregon.gov, City Planner, Bureau of Development Services

NOTICE OF APPEAL HEARING
ON A PROPOSAL IN YOUR NEIGHBORHOOD

CASE FILE: LU 22-159396 AD
REVIEW BY: Design Commission
WHEN: Thursday, April 20, 2023, at 1:30 pm
(This is the hearing start time—see the Design Commission agenda for the estimated project start time)

Remote Access: Design Commission Agenda
<https://www.portland.gov/bds/design-commission>

This land use hearing will be limited to remote participation via Zoom. Please refer to the instructions included with this notice to observe and participate remotely.

Within the past several weeks, we sent you the Bureau of Development Services Administrative Findings and Decision on this proposal. That decision of **approval with conditions** has now been appealed by:

Appellants:

Trolleycar Lofts Homeowners Association
Representative: James McAdoo
2781 NW Savier Street
Portland OR 97210
Phone: (503)740-9604, Email: quidam8@yahoo.com

Neighbors:

Barbara Brown	2829 NW Upshur St. Portland, OR 97210	(503)312-1446
Elliot Levin	1704 NW 28th Ave. Portland, OR 97210	(503)380-1231
Lisa Taaffe	1704 NW 28th Ave. Portland, OR 97210	(713)521-1579
David Greenstein	2473 NW Pettygrove St Portland OR 97210	(503)922-3554
Shelley Jordon	2473 NW Pettygrove St Portland OR 97210	(503)922-3554
Rebecca Cohn	2555 NW Savier St. Portland, OR 97210	(503)939-5341
Susan Stragnell	2555 NW Savier St. Portland, OR 97210	(503)274-0106
James Thompson	2743 NW Thurman St. Portland, OR 97210	(503)331-7109
Deanna Ford	2761 NW Savier St. Portland, OR 97210	(503)349-8139
John Utz	2761 NW Savier St. Portland, OR 97210	(503)680-5395
Lynn Goldstein	2761 NW Savier St. Portland, OR 97210	(503)291-1161

1900 SW 4th Avenue, Suite # 5000, Portland, OR 97201

Mary DeVries	2803 NW Savier St. Portland, OR 97210	(415)307-6122
Gayle Kvernland	2817 NW Savier St. Portland, OR 97210	(503)274-9566
Reinier Warschauer	2856 NW Thurman St. Portland, OR 97210	(503)351-6915
Stacey Vallas	2856 NW Thurman St. Portland, OR 97210	(503)525-2801
Joni Marie Johnson	2864 NW Thurman St. Portland, OR 97210	(503)481-2587
Linda Walton	2865 NW Raleigh St. Portland, OR 97210	(503)288-2880
Anne Harris	2847 NW Savier St. Portland, OR 97210	(801)815-2286
Marceline Gearry	2884 NW Savier St. Portland, OR 97210	(503)223-4366
Jim McAdoo	2781 NW Savier St. Portland, OR 97210	(503)226-9604
Marylou McAdoo	2781 NW Savier St. Portland, OR 97210	(503)226-9604
Regna Merritt	2826 NW Thurman St. Portland, OR 97210	(503)225-9325
JoAnn Utz	2761 NW Savier St. Portland, OR 97210	(503)680-5395
Greg Simon	2847 NW Savier St. Portland, OR 97210	(801)815-2286
Martin Davidson	2756 NW Raleigh St. Portland, OR 97210	(503)313-8556
Glenn Ford	2761 NW Savier St. Portland, OR 97210	(503)349-8138
Doug Boyd	2777 NW Savier St. Portland, OR 97210	(503)780-8777
Bob Clay	2623 NW Savier St. Portland, OR 97210	(503)314-9382

A summary of the appeal is provided below and an explanation of the hearings process is attached. This is a notice to inform you of a public hearing on this proposal and invite you to testify at this hearing. At the hearing the Design Commission will consider the proposal for the development described below.

The following information will tell you important information about this proposal. It is a summary of the administrative decision which you previously received.

Applicant: Philip Sydnor
Integrate Architecture & Planning
1919 N Kilpatrick
Portland, OR 97217
Phone: (503)312-2561, Email: phil@integratearch.com

Owner Rep: Erik Opsahl
Saviez Development
2724 NW Savier St
Portland, OR 97210

Owner: Nascent Collective LLC
PO Box 29107
Portland, OR 97296

Site Address: 2788 NW THURMAN ST

Legal Description: TL 8600 0.23 ACRES, SECTION 29 1N 1E
Tax Account No.: R941290220
State ID No.: 1N1E29DC 08600
Quarter Section: 2826

Neighborhood: Northwest District, contact Greg Theisen at
planningchair@northwestdistrictassociation.org

Business District: None

District Coalition: Neighbors West/Northwest, contact Darlene Urban Garrett at
darlene@nwnw.org

Plan District: Northwest

Zoning: CM2d (Commercial/Mixed Use 2 zone with Design “d” overlay zone)

Case Type: AD (Adjustment Review – 2 Concurrent Adjustments)
Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and retain an existing loading space with alterations. For lot lines in the CM2 zone abutting residentially zoned sites, the Portland Zoning Code requires a minimum building setback of 10 feet and a landscape buffer to the L3 standard (Section 33.130.215.B, Table 130-2). The expansion at the southeast corner of the existing building is proposed to be located as close as 6 feet from the south lot line (at the second-floor patio and first floor staircase/trash enclosure area). An existing loading area along the southwestern corner of the site is proposed to remain and a 6-foot wide pedestrian access connection is proposed along the southern edge of the site to serve as access for the building and trash enclosure area; therefore, no landscaping is proposed in this area¹. The adjacent site to the south is residentially zoned (RM1 – Residential Multi-Dwelling 1); therefore, an Adjustment is requested to reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer.

While no loading spaces are required, the applicant is proposing to narrow the existing 23-foot-11-inch-wide curb cut and loading area located along the southern edge of the site to 10 feet (to be consistent with the “Standard B” loading space requirements), resulting in additional space available for on-street parking.² The Portland Zoning Code requires that loading spaces abutting a Residential zone be set back a minimum of 5 feet and include perimeter landscaping to the L4 standard (per Section 33.266.310.E, Table 266-8). The loading space’s location is adjacent to a residentially zoned site (RM1 – Residential Multi-Dwelling 1) to the south. An additional requirement of this standard is that loading spaces not be located between a building and the street. While the existing loading space is not proposed to expand or be relocated, the addition is proposed to be located as close as 6 feet from the southern property line and the loading space is proposed to be 10 feet wide; this would result in the northernmost 4 feet of the loading space being located between the building and NW 28th Avenue. An Adjustment is therefore requested to reduce the residential-abutting setbacks to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street.

Note: The applicant submitted a revised plan set which reduced the southernmost outdoor seating areas so they are not located within the minimum 10-foot building setback for abutting residential lots (to the south) and expanded the width of the landscape planters areas along these areas to 4 feet to allow additional landscape buffer area.

Relevant Approval Criteria:

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

Administrative Decision:

The following administrative decision was issued on Date Mailed March 3, 2023:

Approval of 2 Adjustments to:

1. reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer (Section 33.130.215.B, Table 130-2); and

¹ The applicant is proposing 4-foot-wide landscape planters at the southern edges of the ground level patio, stairway, and second-floor patio. These landscape planters are proposed within the 10-foot landscape buffer area.

² While the loading space is legally existing, it is not meeting current landscaping requirements. Development not complying with development standards must be brought into conformance or receive an Adjustment. (Loading spaces are considered “exterior development” and therefore subject to nonconforming landscaping upgrades per Section 33.258.070.D.2.b.1).

2. reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street (NW 28th Avenue) (Section 33.266.310.E, Table 266-8)

as part of a larger proposal to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space, per the approved plans and elevations, Exhibits C-1 through C-3, signed and dated February 28, 2023, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 22-159396 AD." All requirements must be graphically represented on the site plan, landscape, or other required plans and must be labeled "REQUIRED."
- B. The landscaped buffer areas along the southern edge of the seating areas (upper courtyard, lower courtyard, stadium seating, and lower rooftop deck, as shown on Exhibit C.2) must be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

The full decision is available on the BDS website:

<https://www.portlandoregon.gov/bds/article/811747>

Appeal:

The administrative decision of *approval with conditions* has been appealed by the Trolley Lofts Homeowners Association (TLHA) and 28 neighbors (see above). According to the appellants' statements, the appeal is based on arguments that:

- The description of the adjacent Trolley Lofts in the administrative decision is inaccurate.
- Adjustments do not equally or better meet the purpose of the zoning regulations.
- Privacy, light, and air for the adjacent building will be impacted because there are sleeping areas, decks, and skylights at the 2nd floor which will be subject to noise of outdoor dining, evening lights and potential music.
- The proposal does not complement the scale or intensity of the surrounding residentially zoned areas.
- The project's sound transmission will impact livability to Trolley Lofts, and "might not be fully attenuated by its origins' elevations and distances."
- The loading zone is too small to accommodate garbage/delivery trucks, which will have to load on NW 28th Avenue, and could result in traffic congestion.
- The proposed landscaping would not mitigate for impacts on the neighbors. "No amount of landscaping will mitigate the impact of large gatherings on the neighboring homes."
- There are concerns with the proposed loading space alterations, including concerns about increased traffic and pedestrian safety.
- There are concerns that the proposal is not aligned with the Northwest Plan District character statement.

The full appeal statements can be viewed in the notice located on the BDS website at

<https://www.portlandoregon.gov/bds/35625>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number.

Review of the file: If you are interested in viewing information in the file, please contact the planner listed on the front of this notice. The planner can provide information over the phone or via email. Please note that only digital copies of material in the file are available for viewing.

We are seeking your comments on this proposal. To comment, you may write or testify at the hearing. Please refer to the file number when seeking information or submitting testimony. In your

comments, you must address the approval criteria as stated in the administrative report and decision which you previously received. Please note that all correspondence and testimony received will become part of the public record.

Written comments must be received by the close of the record and should include the case file number. Any new written testimony should be emailed to David Besley at david.besley@portlandoregon.gov.

Please note regarding USPS mail: USPS mail is only received a couple times a week, and testimony must be received before the close of the record. Therefore, please mail testimony well in advance of the hearing date.

If you plan to testify at the hearing, please refer to instructions included with this notice.

A description of the Design Commission hearings process is attached. The decision of the Design Commission is final; any further appeal is to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA 775 Summer St NE, Suite 330, Salem OR 97301-1283 [Telephone: 503-373-1265] for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Design Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

For more information, call David Besley, Planner at 503-865-6715 or email david.besley@portlandoregon.gov.

Attachments:

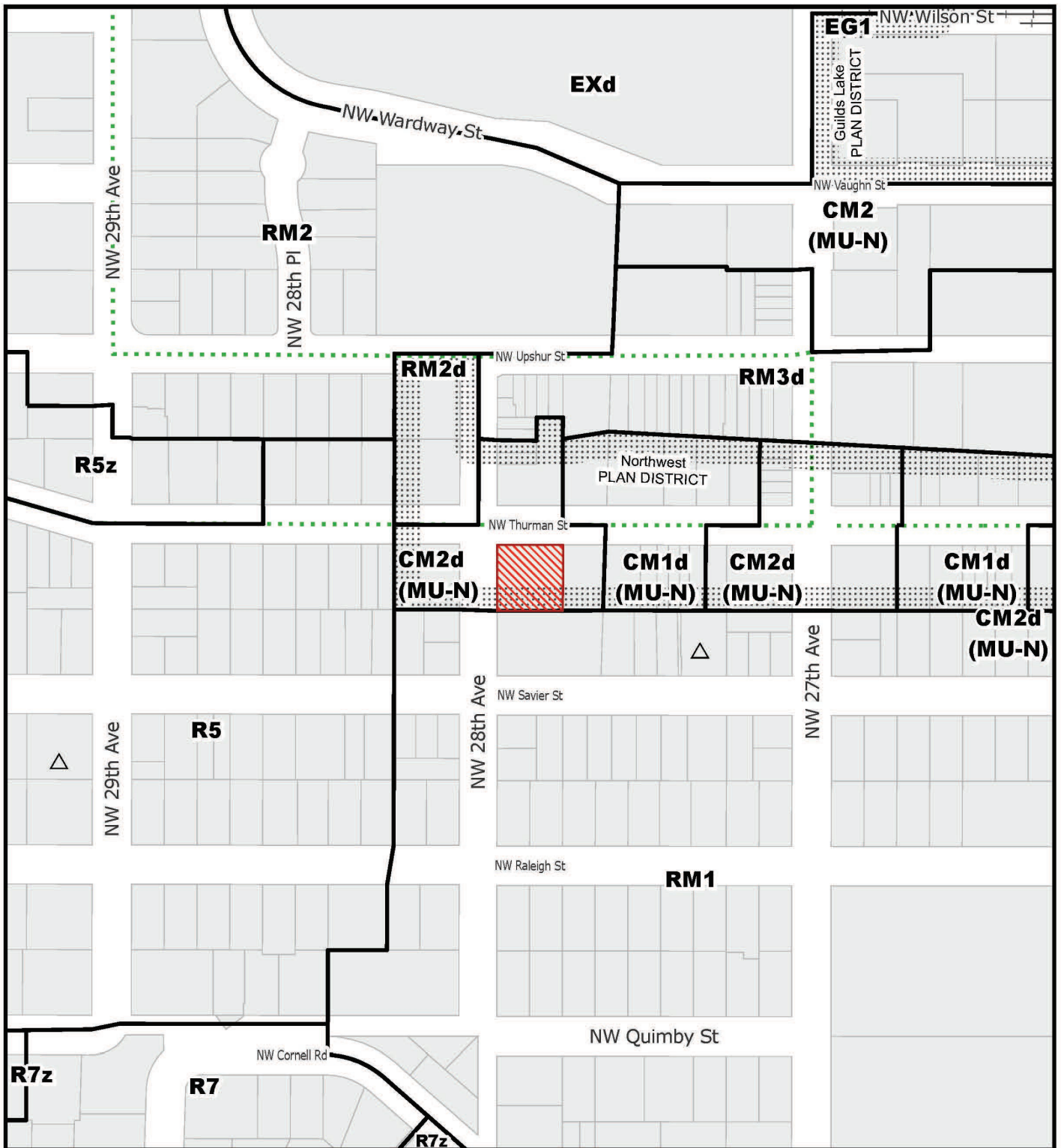
1. Zoning Map
2. Site Plan
3. Floor Plans
4. Elevation Drawings
5. Instructions for Remote Participation
6. Type II Appeal Hearings Process
7. Appeal Statement (on-line version only)

HEARING CANCELLATION

This public hearing may be cancelled due the inclement weather or other similar emergency.

- Design Commission - This public hearing may be cancelled due to inclement weather or other similar emergency. Please call the Bureau of Development Services at 503-823-7617, for information regarding cancellations or rescheduling. You can also view the public hearings agenda, which is frequently updated, at this link: <https://www.portlandoregon.gov/bds/index.cfm?&c=42441> Cancelled hearings will be rescheduled for the earliest possible date. A renotification notice may not be sent.

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)



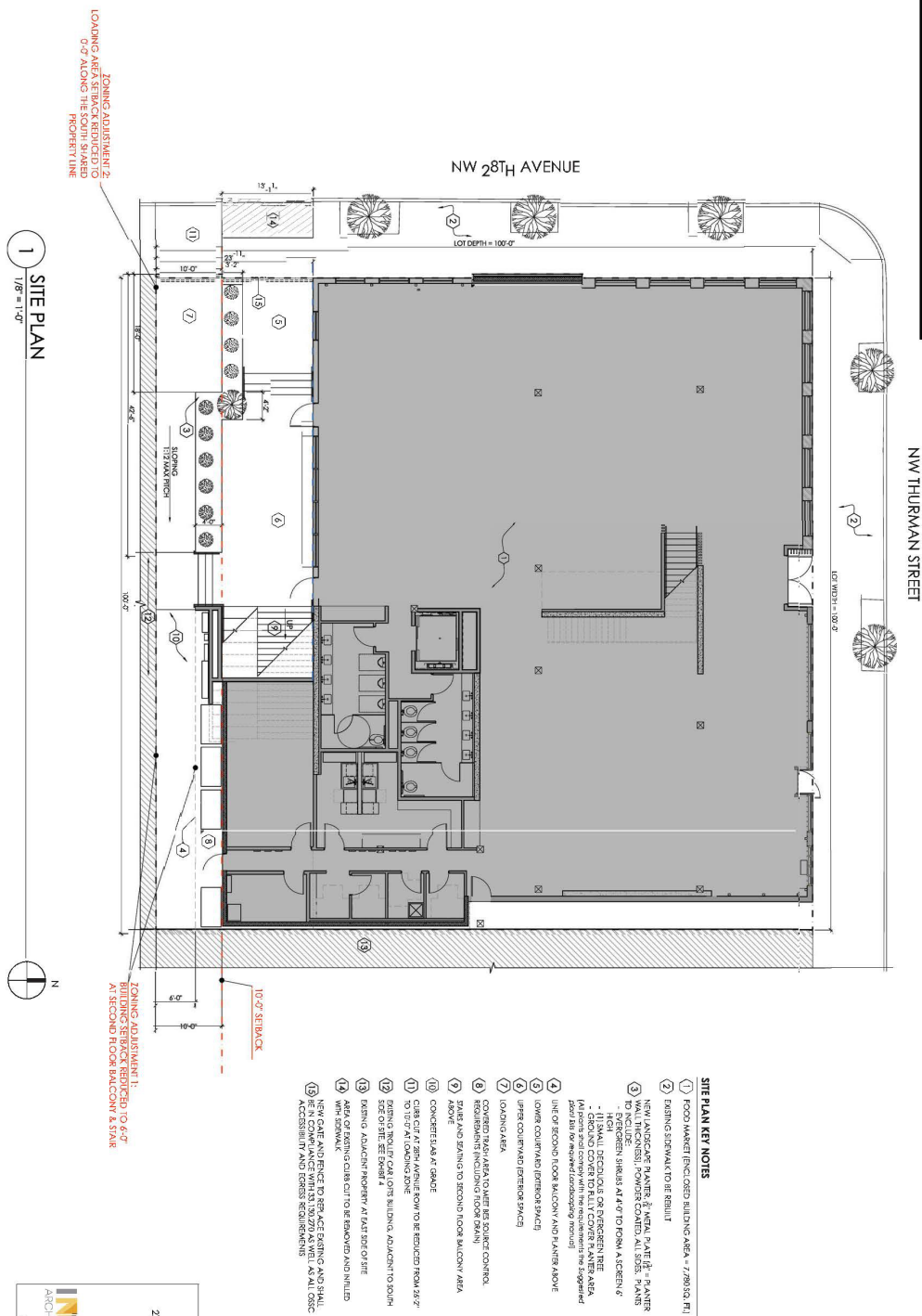
For Zoning Code in effect Post August 1, 2021

ZONING

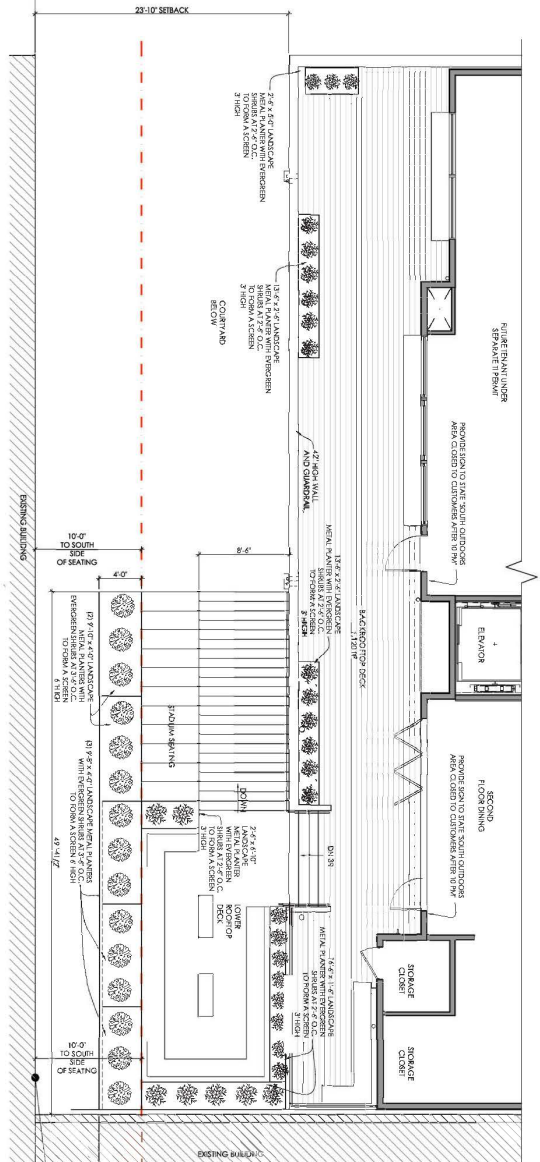
THIS SITE LIES WITHIN THE:
NORTHWEST PLAN DISTRICT

-  Site
-  Historic Landmark
-  Recreational Trails

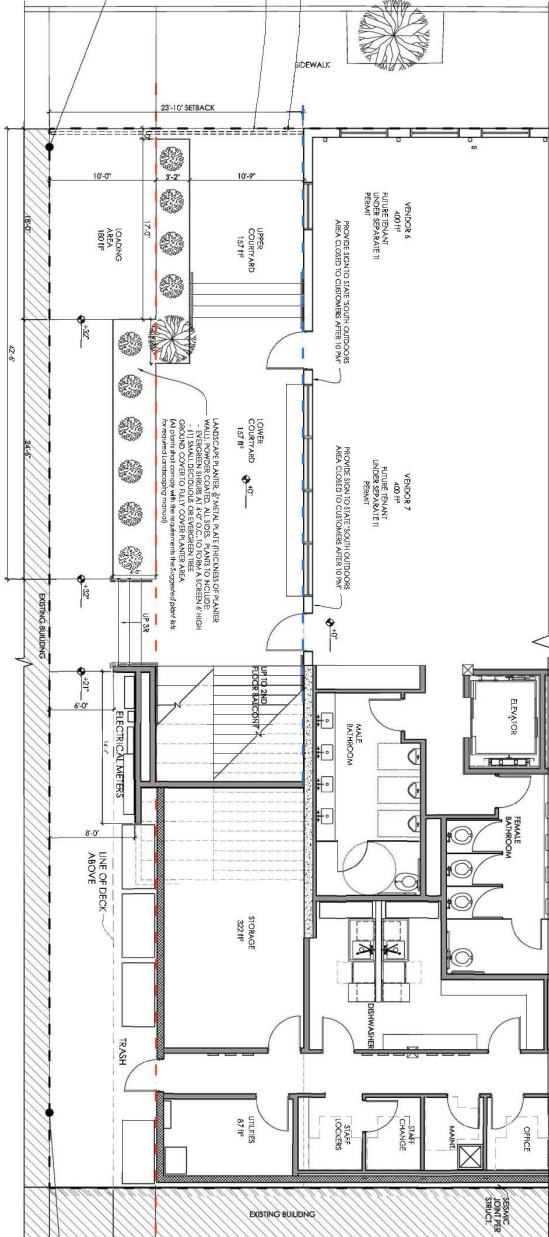
File No.	<u>LU 22 - 159396 AD</u>
1/4 Section	<u>2826</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1N1E29DC 8600</u>
Exhibit	<u>B Jul 05, 2022</u>



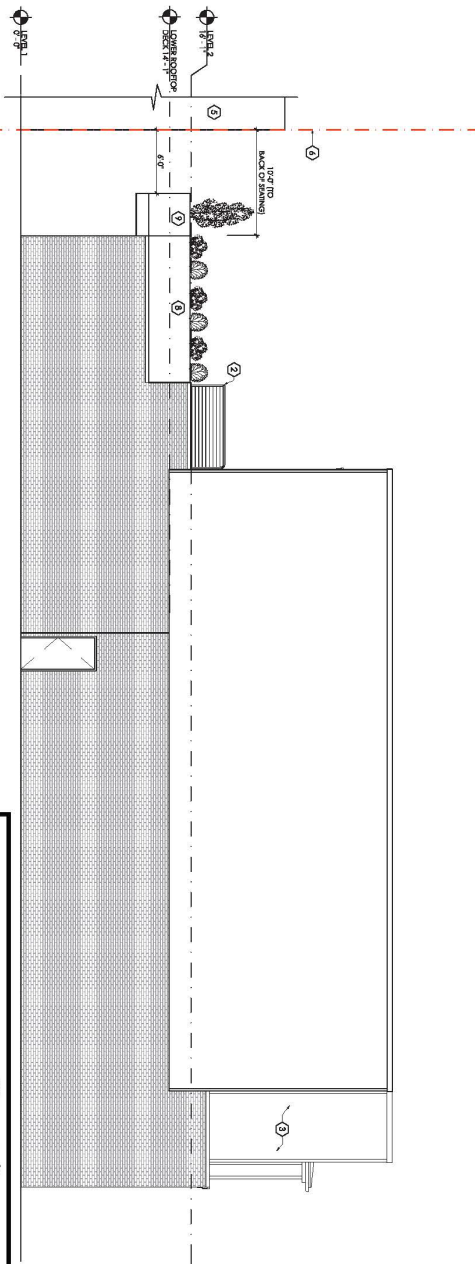
1.200.000	2
3/16" = 1'-0"	



Approved
City of Portland
Bureau of Development Services
Planner **David Besley**
Date **2/28/23**

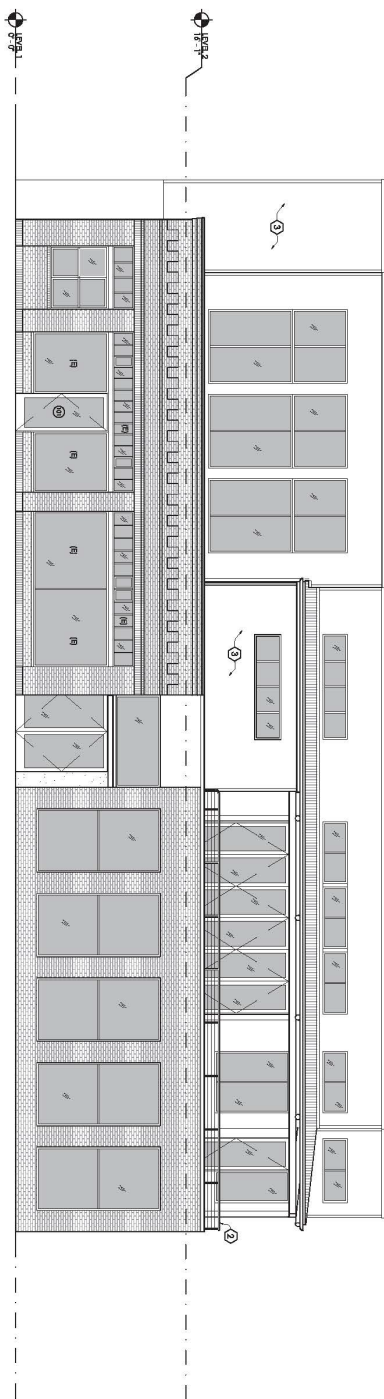
$$\frac{1}{3/16 = 1.0''}$$


1. SOUTH-SEE OUTDOOR AREA CLOSED TO CUSTOMERS AFTER 10:00 PM
2. BUILDING WILL BE IN CONFORMANCE WITH THE OUTDOOR AND/OR CLEAN AIR ACT AND POST-BUILDING BUILDING SERVICE REPAIR TO REMOVING AND ALL OTHER ASSOCIATED ITEMS REGULATED PER CHAPTER 330.415-0400
3. ALL EXTERIOR NON-GLASS LIGHTING TO BE DARK BY APPROVED UNLESS REQUIRED OTHERWISE TO MEET BUILDING CODE REQUIREMENTS
4. OUTDOOR AREA MAINTAIN CAPACITY SHALL BE PER OUTDOOR REGULATORY SPECIFIC CODE TABLE 1004.4 (PARKING/FLOOR AREA ALLOWANCES PER OCCUPANT)



1 EAST ELEVATION
3/16" = 1'-0"

Approved
City of Portland
Bureau of Development Services
Planner **David Besley**
Date **2/28/23**
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

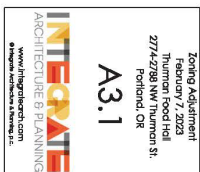


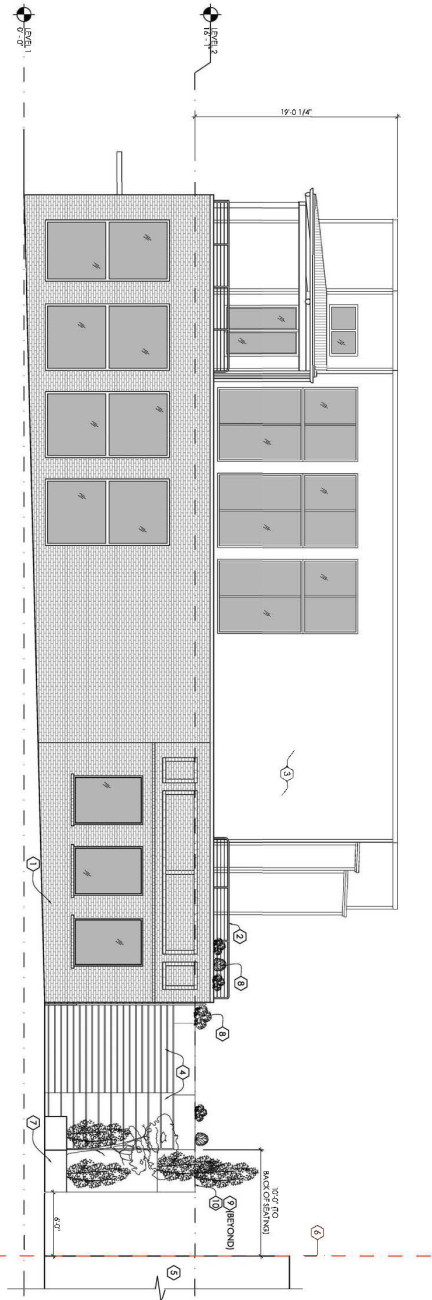
2 NORTH ELEVATION
3/16" = 1'-0"

KEY NOTES

- 1 EXISTING MAINTENANCE WALL
- 2 BALCONY OVERHANG
- 3 NEW SECOND FLOOR WALLS EXTEND
- 4 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 5 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 6 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 7 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 8 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 9 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 10 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 11 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 12 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 13 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 14 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 15 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 16 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 17 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 18 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 19 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 20 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 21 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 22 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 23 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 24 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 25 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 26 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 27 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 28 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 29 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 30 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 31 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 32 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 33 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 34 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 35 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 36 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 37 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 38 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 39 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 40 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 41 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 42 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 43 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 44 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 45 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 46 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 47 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 48 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 49 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 50 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 51 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 52 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 53 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 54 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 55 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 56 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 57 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 58 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 59 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 60 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 61 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 62 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 63 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 64 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 65 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 66 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 67 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 68 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 69 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 70 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 71 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 72 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 73 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 74 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 75 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 76 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 77 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 78 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 79 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 80 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 81 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 82 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 83 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 84 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 85 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 86 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 87 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 88 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 89 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 90 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 91 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 92 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 93 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 94 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 95 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 96 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 97 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 98 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 99 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY
- 100 NEW FLOOR AND BALCONY TO SECOND FLOOR BALCONY

EXTERIOR
ELEVATIONS
A3.1



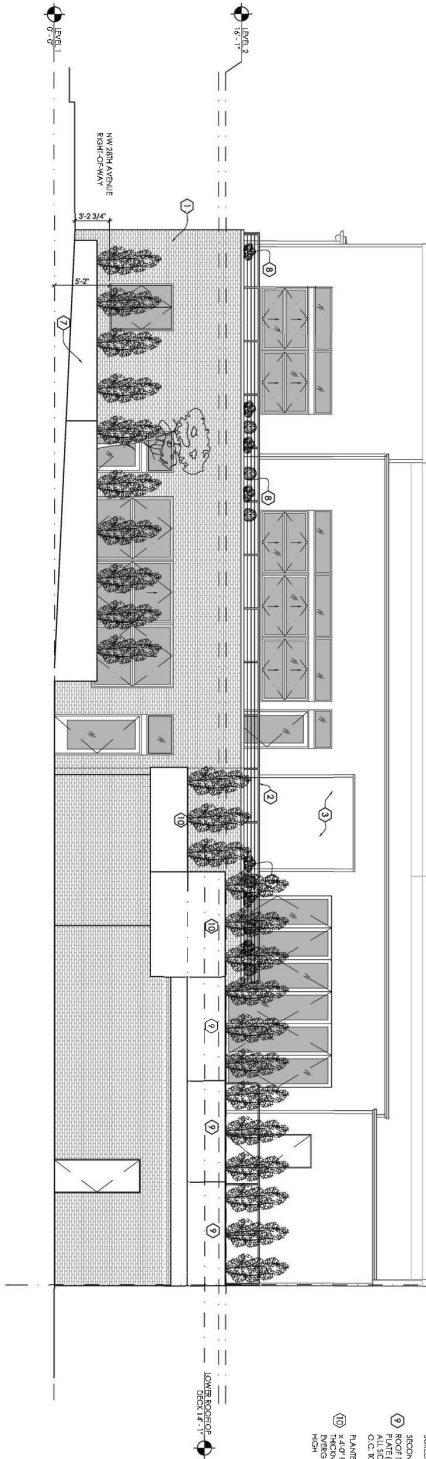


1 WEST ELEVATION
3/16" = 1'-0"

Approved
City of Portland
Bureau of Development Services
Planner **David Besley**
Date **2/28/23**
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

KEY NOTES

- 1) DESIGN MASONRY WALL
- 2) BALCONY GLAZING
- 3) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 4) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 5) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 6) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 7) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 8) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 9) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 10) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 11) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 12) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 13) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 14) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 15) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 16) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 17) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 18) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 19) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 20) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 21) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 22) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 23) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 24) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 25) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 26) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 27) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 28) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 29) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 30) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 31) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 32) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 33) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 34) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 35) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 36) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 37) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 38) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 39) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 40) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 41) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 42) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 43) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 44) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 45) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 46) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 47) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 48) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 49) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 50) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 51) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 52) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 53) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 54) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 55) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 56) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 57) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 58) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 59) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 60) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 61) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 62) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 63) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 64) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 65) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 66) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 67) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 68) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 69) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 70) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 71) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 72) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 73) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 74) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 75) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 76) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 77) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 78) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 79) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 80) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 81) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 82) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 83) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 84) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 85) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 86) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 87) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 88) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 89) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 90) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 91) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 92) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 93) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 94) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 95) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 96) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 97) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 98) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 99) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING
- 100) NEW SECOND FLOOR WALLS WITH SECOND FLOOR GLAZING



2 SOUTH ELEVATION
3/16" = 1'-0"

EXTERIOR ELEVATIONS

Zoning Adjustment
Residential Medium Density
Thurston Food Hall
2714 27th NW Thurston St.
Portland, OR

A3.2

INTEGRATE
ARCHITECTURAL PLANNING
THURSTON FOOD HALL
2714 27th NW, PORTLAND, OR 97204
503.225.1111
www.integratearchitect.com

Observing or Testifying at the Portland Design Commission, Historic Landmarks Commission, or Adjustment Committee Webinar Hearings

Thank you for your interest in attending a land use public hearing. All hearings are currently held virtually, via Zoom. The information below will help you get connected.

***If you do not have access to the internet from a home computer or mobile phone, please see the end of this document for instructions on how to participate from a City building at 1900 SW 4th Avenue in downtown Portland.

Preparing for the Hearing:

1. To access the Zoom Webinar, please go to the online hearing Agenda, and click the link under the hearing date you are interested in participating: <https://www.portlandoregon.gov/bds/42441>
2. In advance of the hearing, please review documents and drawings in the project link within the Online Agenda.
 - Please also provide comments to the planner assigned in advance of the hearing.

Getting into the Hearing [Registering in Zoom to observe or participate in Hearing]:

1. In order to observe or testify in the hearing, please be sure to Register for the Webinar as soon as possible.
 - The Webinar Link is posted to the Online Agenda typically one week prior to the hearing date.
2. Once you register you will receive an email notification of how to log-in or access the Webinar.
3. You can enter the Webinar no sooner than ten minutes before the start of the hearing.
4. You will be held in the Zoom waiting room until the Webinar begins. (Please note each individual agenda item has an estimated start time.)
5. If using a smartphone or tablet, download the Zoom app for easy entry into the Webinar.

Public participation in the Hearing:

1. After Staff and Applicant presentations, the Chair will announce public testimony is open, and will ask if anyone else would like to testify.
2. You can provide public comment in this Webinar in several ways:
 - If during registration you indicated you would like to testify, we will put your name in order of request. Once in the hearing, testifiers will be renamed "Testifier 1 – (Your Name)"
 - Members of the public will be automatically muted except for when they are called by the Hearings Clerk for their public comment. During the Webinar, the Hearings Clerk will promote participants to "Panelists" in the order of Webinar Registrations received. When it is your turn to provide testimony, please accept the Clerk's invitation to be promoted to Panelist.
 - If you indicated in your registration that you did not want to testify but later changed your mind, when testimony is open:
 - Click the "raise your hand" function in ZOOM, and the Hearings Clerk will add you to the list of testifiers.
 - If you will be participating by call-in, raise your hand by pressing *9 - the Webinar host will see this notification.
 - When you are moved to Panelist position for your testimony, your name will be announced by the Chair or Hearings Clerk. Please be prepared to provide testimony.
 - Each testifier is allotted 2 minutes of testimony unless the Chair grants additional time.
 - Please manage your time when testifying. As a courtesy to other testifiers and our volunteer Commissions, please do not attempt to exceed the allotted amount of time.
3. We will enable screen sharing of presentations only for Design and Landmarks Commission members, project teams, and staff participating in the Webinar.
4. Testifiers who engage in inappropriate behavior or language will be promptly removed from the hearing.

Follow-up:

1. The Webinar will be recorded and uploaded to the City of Portland Auditors website, under the Case File Number, here: <https://efiles.portlandoregon.gov/Search>.

If you do not have access to the internet from a home computer or mobile phone, we can provide accommodations for you to view a live video display of the hearing from 1900 SW 4th Avenue in downtown Portland. This option for participation requires you to travel to a City building where we will provide a computer for viewing the hearing. City staff will not be present at this viewing location. If you require such accommodation, please contact the BDS Hearings Clerk at 503-865-6525 before 8 AM on the day of the hearing.

DESIGN & LANDMARKS COMMISSIONS PROCESS ON APPEALS

1. HEARINGS PROCESS

- a. The order of appearance is generally as follows:
 - Planner Presentation *10 minutes*
 - Appellant Presentation *10 minutes*
 - Supporters of Appellant *2-5 minutes (TBD by Commission Chair)*
 - Principal Opponent *15 minutes*
 - Other Opponents *2-5 minutes (TBD by Commission Chair)*
 - Appellant Rebuttal *5 minutes*
 - Close Public Testimony
 - Commissioner Comments or Deliberation

Prior to the close of Public Testimony, if any party requests an opportunity to submit additional evidence, the record will be held open.

- b. The appellant may be the applicant or someone else, and opposes the administrative decision. In order to prevail, the appellant must succeed in one of the following:
 - 1. If you are the appellant and not the applicant, you must persuade the Commission to find that the applicant has not carried the burden of proof with regard to one or more of the approval criteria. You may also wish to explain to the Commission how or why the applicant's facts are incorrect.
 - 2. If you are the appellant and also the applicant, you must persuade the Commission how you have met all of the applicable criteria and how the facts, which you relied upon, are correct. If you have appealed the decision because of a condition of approval, you must demonstrate how the applicable criteria can be met without the condition or that there is no legal relationship between the approval criteria and the condition.
 - 3. If you are the appellant (and either the applicant or an opponent of the decision), you may want to show the approval criteria are being incorrectly interpreted, the wrong approval criteria are being applied, or additional approval criteria should be applied. Any errors in the proceeding should also be identified, as well as an error in any decision by staff.
- c. Failure to address an issue with sufficient specificity to afford the decision-maker and the parties an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals (LUBA) on that issue.

2. ADDITIONAL INFORMATION

- a. The Appeal Report to the Commission, including the Administrative Findings and Decision, will be available at least 10 days prior to the hearing. All reports available at www.portlandoregon.gov/bds/42441.
- b. If any additional information is provided in support of the application after the notice of the hearing is given, any party is entitled to request a continuance of the hearing to allow time for review of that material.
- c. If a participant requests it, before conclusion of the initial evidentiary hearing by the Commission, the record will remain open for at least seven days after the hearing to allow for the submittal of additional written evidence. If new evidence is submitted in that seven-day period, there will be an additional seven days provided to the applicant for written rebuttal to the evidence, if the applicant requires that time. The Commission will then meet again to make its decision.
- d. The decision of the Commission will be mailed to the applicant and other participants no later than 17 days after the close of the record.



City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 | 503-823-7300 | www.portlandoregon.gov/bds



Type II and IIX Decision Appeal Form

LU Number: _____

FOR INTAKE, STAFF USE ONLY

Date/Time Received _____	<input type="checkbox"/> Action Attached _____
Received By _____	Fee Amount _____
Appeal Deadline Date _____	Y N Fee Waived
<input type="checkbox"/> Entered in Appeal Log _____	Bill # _____
<input type="checkbox"/> Notice to Dev. Review _____	Neighborhood _____

APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS _____ DEADLINE OF APPEAL _____

Name _____

Address _____ City _____ State/Zip Code _____

Day Phone _____ Email _____ Fax _____

Interest in proposal (applicant, neighbor, etc.) _____

Identify the specific approval criteria at the source of the appeal

Zoning Code Section 33. _____ . _____ Zoning Code Section 33. _____ . _____

Zoning Code Section 33. _____ . _____ Zoning Code Section 33. _____ . _____

Describe how the proposal does or does not meet the specific approval criteria identified above or how the City erred procedurally:

Appellant's Name _____

I acknowledge this typed
name as my signature

FILE THE APPEAL - Submit the following:

- ☐ This completed appeal form
- ☐ A copy of the Type II or IIX Decision being appealed
- ☐ An appeal fee as follows:
 - ☐ \$250, payable to City of Portland
 - ☐ No appeal fee is charged when appeal is filed by Civic Life recognized organizations for properties within organization's boundaries
 - ☐ Fee waiver request letter for low income individual is signed and attached
 - ☐ Fee waiver request letter for Unincorporated Multnomah County recognized organizations is signed and attached

Email this application and supporting documents
to: LandUseIntake@portlandoregon.gov

To file the appeal, this completed application form and any supporting documentation must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of the Decision. To be valid, the City must receive the appeal by 4:30 p.m. on the deadline listed in the Decision. Once the completed appeal application form is received, a Land Use Services Technician will contact you with instructions on how to pay the fee.

A public hearing on the appeal will be held. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

Type II and IIx Appeal Procedure

For land use review applications that follow a Type II and IIx procedure, the Bureau of Development Services makes the decision on the application. This decision is called the Administrative Decision and may be appealed. The applicant and/or an interested person who does not agree with the Administrative Decision may appeal it by using the Type II and IIx Decision Appeal Form and submitting an appeal fee. No appeal fee is charged for Type II and IIx appeals when filed by a Civic Life recognized organization; the appeal must be for property located within the organization's boundaries, and the vote to appeal must be in accordance with the organization's bylaws. An appeal of a decision triggers an initial hearing before a City review body.

There is a 14-day appeal period that starts the day that the decision is mailed. The last day to appeal is stated in the decision. If appealed, a specific review body hears the case and makes the final City decision. These review bodies include:

- The Hearings Officer
- The Design Commission
- The Portland Historic Landmarks Commission
- The Adjustment Committee

Type II and IIx Appeal Hearing

When a decision is appealed, the Bureau of Development Services schedules a public hearing and sends out a notice within five days of receiving the appeal. The hearing is held at least 21 days from the mailing of the notice.

At the hearing, everyone attending is allowed to speak to the review body. The testimony must address whether or not the proposal meets the approval criteria as described in the Administrative Decision or how the City erred procedurally. Written testimony is also accepted prior to or at the hearing. This may include additional information submitted by the applicant and/or appellant.

If a committee reviews the appeal, a decision is made at the hearing. If the Hearings Officer is the review body, they may make a decision at the hearing, or make a decision later. Both the Hearings Officer and the committee must make a written decision and send notice of the decision within 17 days after the hearing. The decision is mailed to the appellant, applicant, and to anyone who submits oral or written testimony at the hearing.

The review body may adopt, modify, or overturn the Administrative Decision based on the information presented at the hearing and in the case record.

Appeal Fees

An appeal of a land use decision must include an appeal fee. There is a \$250 fee charged for appealing a Type II and IIx decision. This fee is refunded if the decision-maker grants the appeal; i.e. agrees with the appellant.

In order for an appeal to be valid, an appeal fee must accompany the appeal form or a fee waiver request must be approved before the appeal deadline as stated in the specific land use decision (Section 33.730.020 of the Portland Zoning Code). See below for fee waiver eligibility information.

Low Income Fee Waiver

The appeal fee may be waived for low income applicants who appeal a land use decision on the site of their primary residence in which they have an ownership interest. In addition, the appeal fee may be waived for low income individuals who have resided for at least 60 days within the required notification area for the land use review. Low income individuals requesting a fee waiver will be required to certify their annual gross income and household size. The appeal fee will only be waived for households with a gross annual income of less than 50 percent of the area median income as established and adjusted for household size by the federal Department of Housing and Urban Development (HUD). All financial information submitted to request a fee waiver is confidential. Fee waiver requests must be approved prior to appeal deadline to be considered for a fee waiver.

Information is subject to change

Attachment A

Appeal of Adjustments at 2788 NW Thurman Street 97210

Applicant's requested Adjustments do not equally or better meet the purpose of the modified zoning regulations.

Alternatives would improve project without planning adjustments.

ZONING CODE SECTION 33.130.215: Setbacks

(Per Notice of Decision Attached)

Setback Adjustment

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, and add ground level and second floor patios connected via an external stairway, which requires an Adjustment to reduce the minimum 10-foot building setback to 6 feet (for commercial lots abutting residential lots) along the south lot line, and to waive the L3 landscaping buffer.

33.130.215 Setbacks

The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial/mixed use zones. The setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air, and the potential for privacy for adjacent residential zones.

The residential building adjacent to the project to the south (Trolleycar Lofts) includes a solid brick wall at its north façade. The northern facade of Trolleycar Lofts is located zero feet from the shared lot line with the subject site. While there are no doors or windows along its northern edge, the 6 units within have partial roof patios. The second level patio of the proposed commercial development includes a smaller patio that is closest to the residential zone, which has a finished surface elevation about 10 feet beneath the top of Trolleycar Loft's parapet, and a larger second level patio which is set back 24 feet from the residential property line and has a finished surface elevation that is 8 feet lower than the top of the parapet (see Exhibit A.2, page 4). Because the second level patios are significantly lower than the Trolleycar Lofts parapet, privacy to the residents of Trolleycar Lofts will be promoted.

Trolleycar Lofts, a residential condominium building adjacent to/sharing the project's southern property line adjoining the project's current 10'x100' alley, However, its description is incomplete and incorrect.

Trolleycar Lofts has six (6) penthouses adjacent to six (6) roof decks on its roof.

Five (5) of the six (6) penthouses have (1) bedroom and (1) full size bathroom. Range in size from 357 SF to 470 SF. Total 2134SF

Closest to Trolleycar Lofts North parapet wall and the project are:

Unit 2759 roof deck

Unit 2761 penthouse/roof deck

Unit 2777 penthouse/roof deck

Unit 2769's penthouse's north wall.

Unit 1704 penthouse/roof deck.

Trolleycar Lofts penthouse fronts/roofs are 6 feet to 8 feet *above* the its North parapet. Parapet is not a complete penthouse sound barrier given origins' locations and distances from the parapet.

Unit 1704 penthouse/roof deck also adjacent to Trolleycar Lofts West parapet and NW28th's East sidewalk. NW 28th East street side parking and East sidewalk next to Unit 1704's two (2) first floor bedrooms' West exterior walls.

Trolleycar Lofts also has thirty (30) venting skylights. Of these, eleven (11) venting skylights are located on its five (5) penthouses and four (4) slope deck roof areas closest to the building's North parapet.

Three (3) lofts have multi-split systems which will reduce venting skylight use. Nonetheless, owners will also continue to use first floor living spaces' and penthouses' exterior windows to maintain interior ventilation.

Project's sound transmission to Trolleycar Lofts:

(1) might not be fully attenuated by its origins' elevations and distances.

(2) is important to Trolleycar Lofts livability.

Applicant must conduct with the assistance of professional consultancy(ies), sound transmission investigations.

Investigations to ensure that Trolleycar Lofts penthouses and first floor living areas sound levels are at a constant 55dBA and in compliance with Title 18 Noise Control Code.

First investigation submitted before Building Permit approval and second investigation submitted within (1) year after project completed. Each to confirm residential sound transmission compliance at 55dBA at Trolleycar Lofts.

Further, Applicant must review and modify as/if required, project's operating hours in its other business areas beyond the South outdoor courtyard, lower rooftop deck, and back rooftop deck 10PM closure to ensure compliance for other adjacent residences.

Applicant to not allow property owner and/or tenant amplified live and recorded music.

ZONING CODE SECTION 33.266.310: Loading Space Adjustment:
(Per Notice of Decision attached):

A second Adjustment is requested to reduce the residential-abutting setbacks for a loading space from 5 feet (landscaped to the L4 standard) to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street. The relevant purpose statements and associated findings are found below:

33.805.040 Adjustment 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.

Criteria A has Not been met.

Granting the Adjustment will NOT equally or better meet the purpose of the regulation to be modified.

33.266.310 Loading Standards

Code section, 33.266.130 omitted in the attached Decision. Cites the purpose of the requested adjustment.

33.266.130 Development Standards for All Other Development (Parking, Loading, And Transportation And Parking Demand Management)

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

Loading zone at 10'x18' is too small to allow garbage/recycling trucks to load. Only pickups and vans can safely unload/load in the zone. A front loading garbage truck is 8 ½ feet wide. A rear loading garbage truck is 8 feet wide. A side loading recycling truck is also 8' wide. All three truck types will have to be loaded on NW 28th Avenue. As well, beverage delivery trucks the same size as garbage/recycling trucks will also have to unload/load on NW 28th.

An additional parking space on NW 28th has been added adjacent to the loading zone. Will limit garbage/recycling and beverage truck loading efficiency and safety.

As well, pedestrian safety on the sidewalk adjoining the alley could be compromised by loading zone's proximity to the sidewalk.

Past use of alley has been limited/infrequent. A small number of garbage and recycling bins were moved from the alley to NW 28th. Project will significantly change that volume.

Trolley-car Lofts residents will have a more frequent garage driveway and sidewalk safety issue with the right or south side of the new loading zone as will other drivers and pedestrians. Especially Trolley-car Lofts residents when leaving the condominium's garage and turning right off its driveway onto NW 28th.

ZONING CODE SECTION 33.805.040: Adjustment approval criteria

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;

Landscaping, reduced building setbacks, and shorter loading zone in alley allow larger outdoor courtyards.

Larger outdoor courtyards can accommodate large gatherings. Large gatherings could affect sound transmission to Trolley-car Lofts living spaces. Their likelihood should be included in project's sound transmission investigations requested by Trolley-car Lofts.

Project's large gatherings could also affect sound transmission to two residences on east side of NW 28th as well as two residences at the NW Savier/NW 28th intersection.

PLANNING CODE SECTION 33.420.010: Design Overlay Zone

(Per Notice of Decision attached):

The site is in the Design overlay zone, the purpose for which is in Zoning Code Section 33.420.010:

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;*
- Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and*
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.*

Whether or not project can achieve the Design Overlay Zone's three (3) goals is subjective and difficult. However, no full-time on-site project manager for a large diverse multi-tenant restaurant and retail property, will make that effort difficult/problematic. Project manager should be on-site for at least two (2) years after project completed.

Attachment B

Trolleycar Lofts Homeowners Association

Trolleycar Lofts Homeowners Association (TLHOA) a six (6) condominium since 1998 in NW Portland with ten (10) owners and residents.

Trolleycar Lofts (TL) a former 1914 industrial/warehouse masonry building re-developed into six (6) residential lofts in 1996-1998. Located in RM1-Residential Multi-Dwelling zone. Building 16000SF.

Nascent Collective LLC (Nascent) owned since late 2020, a 1914 single story frame/masonry commercial building at 2788 NW Thurman Street 97210. Located in CM2D (MU-N) zone.

Nascent and Trolleycar Lofts buildings built in 1913/1914 by Beno & Ballis, two real estate developers in Portland, OR.

Trolleycar Lofts building later sold by developers in 1920's. Multiple commercial, military, and warehouse uses until redevelopment in 1998/1998.

Nascent's single story building has an existing 10' x 100' paved alley separating Trolleycar Lofts building's North exterior masonry wall from Nascent's building's South exterior masonry walls.

Adjacent to last tenant's, Crackerjacks', outdoor bar/restaurant dining area adjacent to the alley. Area installed without Bureau Development Services approval.

Southern part of the alley next to an adjacent property has been enclosed by two (2) small storage sheds.



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

Carmen Rubio, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7310
TTY: (503) 823-6868
www.portland.gov/bds

Date: March 3, 2023
To: Interested Person
From: David Besley, Land Use Services
503-865-6715 / David.Besley@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 22-159396 AD

GENERAL INFORMATION

Applicant: Philip Sydnor
Integrate Architecture & Planning
1919 N Kilpatrick
Portland, OR 97217
Phone: 503.312.2561
Email: phil@integratearch.com

Owner Rep: Erik Opsahl
Savier Development
2724 NW Savier St
Portland, OR 97210

Owner: Nascent Collective Llc
Po Box 29107
Portland, OR 97296

Site Address: 2788 NW THURMAN ST

Legal Description: TL 8600 0.23 ACRES, SECTION 29 1N 1E
Tax Account No.: R941290220
State ID No.: 1N1E29DC 08600
Quarter Section: 2826

Neighborhood: Northwest District, contact Greg Theisen at planningchair@northwestdistrictassociation.org
Business District: None
District Coalition: Neighbors West/Northwest, contact Darlene Urban Garrett at darlene@nwnw.org

Plan District: Northwest

Zoning: CM2d (Commercial/Mixed Use 2 zone with Design “d” overlay zone)

Case Type: AD (Adjustment Review – 2 Concurrent Adjustments)

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space. For lot lines in the CM2 zone abutting residentially zoned sites, the Portland Zoning Code requires a minimum building setback of 10 feet and a landscape buffer to the L3 standard (Section 33.130.215.B, Table 130-2). The expansion at the southeast corner of the existing building is proposed to be located as close as 6 feet from the south lot line (at the second-floor patio and first floor staircase/trash enclosure area). An existing loading area along the southwestern corner of the site is proposed to remain and a 6-foot wide pedestrian access connection is proposed along the southern edge of the site to serve as access for the building and trash enclosure area; therefore, no landscaping is proposed in this area¹. The adjacent site to the south is residentially zoned (RM1 – Residential Multi-Dwelling 1); therefore, an Adjustment is requested to reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer.

While no loading spaces are required, the applicant is proposing to modify the existing 23-foot-11-inch wide loading area located along the southern edge of the site. It is proposed to be reduced to 10 feet wide (to be consistent with the “Standard B” loading space requirements), and the remaining 13 foot – 11 inch curb cut is proposed to be closed for use as additional on street parking.² The Portland Zoning Code requires that loading spaces abutting a Residential zone be set back a minimum of 5 feet and include perimeter landscaping to the L4 standard (per Section 33.266.310.E, Table 266-8). The loading space’s location is adjacent to a residentially zoned site (RM1 – Residential Multi-Dwelling 1) to the south. An additional requirement of this standard requires that loading spaces not be located between a building and the street. While the existing loading space is not proposed to expand or be relocated, the addition is proposed to be located as close as 6 feet from the southern property line and the loading space is proposed to be 10 feet wide; this would result in the northernmost 4 feet of the loading space being located between the building and NW 28th Avenue. An Adjustment is therefore requested to reduce the residential-abutting setbacks to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street.

Note: The applicant submitted a revised plan set which reduced the southernmost outdoor seating areas so they are not located within the minimum 10-foot building setback for abutting residential lots (to the south) and expanded the width of the landscape planters areas along these areas to 4 feet to allow additional landscape buffer area.

Relevant Approval Criteria:

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

¹ The applicant is proposing a 3-foot-2-inch wide x 24.5-foot long landscape planter at the ground level, a 2.5-foot wide x 19.5-foot long landscape planter area at the southern edge of the stairway, and a 4-foot wide x 29-foot long landscape planter at the southern edge of the second-floor patio. These landscape planters are proposed within the 10-foot landscape buffer area.

² While the loading space is legally existing, it is not meeting current landscaping requirements. Development not complying with development standards must be brought into conformance or receive an Adjustment. (Loading spaces are considered “exterior development” and therefore subject to nonconforming landscaping upgrades per Section 33.258.070.D.2.b.1).

ANALYSIS

Site and Vicinity: The 10,000 square foot site is located on the southeast corner of the intersection of NW Thurman Street and NW 28th Avenue. The relatively flat site is currently developed with a 7,213 square foot single-story commercial building (an out-of-business tavern). The surrounding vicinity is developed with a mix of commercial buildings and higher density residential buildings along NW Thurman Street to the east, ranging from 1-to-3-stories. Development to the south is primarily single- and multi-dwelling residential buildings ranging from 1-to-3-stories. Development about one block to the north consists primarily of higher density multi-dwelling residential buildings ranging from 2-to-4-stories. The adjacent sites to the north, east, and west of the subject site are also zoned Commercial/Mixed Use 2 with a Design (“d”) overlay zone. The adjacent site to the south is zoned Residential Multi-Dwelling 1 (RM1), and is developed with a single-story multi-dwelling residential building with a partial second floor.

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

The Design overlay zone (“d”) ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city’s evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;
- Contribute to a public realm that encourages social interaction and fosters inclusivity in people’s daily experience; and
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **November 17, 2022**. The following Bureaus have responded as follows:

- The Portland Bureau of Transportation (PBOT) responded with no concerns regarding the Adjustment review, included information about required right-of-way improvements, and noted that reducing the existing curb cut as proposed will add an additional on-street parking space and provide additional street tree plantings (Exhibit E.1);
- The Life Safety Review Section of the Bureau of Development Services (BDS) responded with no concerns regarding the Adjustment review, and noted that a separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances (Exhibit E.2);
- The Bureau of Environmental Services (BES) responded with no concerns regarding the Adjustment review and noted that a detailed stormwater management plan will be required during building permit review (Exhibit E.3); and
- The Fire Bureau responded with no concerns and noted that a separate building permit is required for this proposal (Exhibit E.4).

The following Bureaus have responded with no concerns (Exhibit E.5):

- The Site Development Review Section of BDS; and

- The Water Bureau.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 17, 2022. Thirty-seven written responses have been received from the Northwest District Association (NWDA, Exhibit F.25) and neighboring property owners/HOAs in response to the proposal. Six responses (including the NWDA) were written in support of the proposal (See the Exhibit section at the bottom of this Decision Letter for details). The NWDA supports the project conditioned on the provision of the following measures:

1. Professional acoustic engineering review of all exterior mechanical equipment to assure acceptable operating noise levels, including the use of plantings for attenuation; and
2. An executed Good Neighbor Agreement, negotiated in good faith by the applicant and the affected neighbors, to address any anticipated operational issues arising from the proposed uses and the location of exterior public seating areas.

The remaining 31 responses were written expressing concerns about the proposal, requesting additional information about the proposal, suggesting modifications to the proposal, and/or opposing the proposal. Many of the concerns expressed by neighbors were shared and are summarized below:

- Privacy:
 - The proposed second floor drinking/dining area would be too close to the residential neighbors to south (Trolleycafe Lofts) and west, and because it is elevated, there would be privacy issues (views and noise from customers using the second-floor patio to the residents to the south, who have roof decks and skylights).
- The proposed patios are oriented toward NW 28th Ave to the west and the residential lot to the south rather than NW Thurman St to the north. A preferred design would be patios should be oriented to Thurman because this is a commercial corridor and NW 28th is more residential.
- Noise impacts:
 - Customers of the proposed business;
 - Ventilation from the kitchens;
 - Amplified or live music;
 - Trash pick-up; and
 - Deliveries/loading zone activity.
- Odor impacts:
 - Trash area;
 - Cigarette smoke; and
 - Cooking smells.
- Off-site impacts (sidewalk and surrounding areas):
 - Cigarette smoke;
 - Noise/drunken customers;
 - Tables and chairs in the sidewalk/right-of-way;
 - Vagrancy/loitering; and
 - Rodents
- Visual impacts:
 - Light pollution;
 - Loading space; and
 - Garbage.
- There could be an increase in traffic congestion and less parking availability.
- The proposed landscape planters/shrubs would not provide adequate buffer/mitigation.
- The proposal does not equally or better meet the purpose of the regulations (per Adjustment Approval Criterion A).
- The proposal would detract from the “livability and appearance” of the residential neighborhood (per Adjustment Approval Criterion B).
- The proposal would negatively impact the neighborhood character and property values.
- The scale of the project is too large/intensive:

- Too many occupants will be using the patio space, with estimates of 175-200 people in this area;
 - There will be too many restaurants/bars.
- There are maintenance concerns for the north wall of adjacent Trolley Car Lofts residential development to the south of the building.
- Granting the Adjustment would allow a roof top beer garden adjacent to a Residentially-zoned site.
- There are questions about the proposal that have not been answered by the applicant:
 - What are the hours of operation?
 - How many businesses will there be?
 - What kinds of businesses will there be?
 - What is the occupancy?
 - Will alcohol be served?
 - Will there be amplified or live music/outdoor entertainment? What will the volume be?

Applicant Response:

The applicant provided a response to neighbor comments (Exhibit A.2), which is summarized as follows:

- The applicant acknowledges compliance with the two conditions required by the NWDA.
- The scale of the proposal is far below the allowable 45-foot height and Floor Area Ratio (2.5:1 FAR and up to 4:1 FAR with bonuses). The proposed height is about 35 feet and the proposed FAR is about 1.58:1. The partial second story of the building is proposed to be set back 32 to 36 feet from the southern property line, which significantly exceeds the minimum 10-foot building setback requirement.
- Restaurants and bars are allowed in this commercial zone by right.
- Outdoor seating is proposed on the north, west, and south sides of the building. The outdoor seating area would be accessed from both NW Thurman Street through the building as well as from NW 28th Avenue, thereby connecting the two pedestrian pathways. The occupancy number of 175-200 people that was stated in the original letter written by a neighbor assumed a standing only environment and was calculated using gross square feet and did account for actual conditions where there will be space taken by tables, chairs, planters, egress walkways, etc. We anticipate the actual real world maximum capacity to be between 90-135 occupants for both the north and south outdoor areas, but the actual maximum allowed capacity stated per code will be in line with Oregon Structural Specialty Code and Fire Marshall requirements.
- The property will abide by all City sound and noise codes/ordinances as stated in Chapter 18.10.010 Maximum Permissible Sound Levels
- Regarding neighbor concerns about potential noise created by the outdoor areas on the upper level, and the impact to the roof decks of the Trolley car Lofts, it should be noted that the second-level smaller patio that is closest to the residential zone at the southeast corner of the property is only 500 sq.ft. with a seating area set back 10 feet from the property line. The finished surface elevation of the patio is about 10 feet beneath the top of the residential building's parapet, and the larger second level patio is set back 24 feet from the residential property line and has a finished surface elevation that is 8 feet lower than the top of the residential building's parapet.
- The existing 24 foot wide x 89 foot – 6 inch long paved loading zone was officially permitted (permit #395581) as a loading area in 1962, but has existed on the property since it was originally built in 1914. It has remained an active loading area over the years for both the tavern and art studio uses.
- The adjustments requested will reduce the burden on residential neighbors by allowing the waste area and electrical utility equipment to be located as far back as possible from the sidewalk frontage along NW 28th Ave, while also retaining an onsite loading area for deliveries, keeping the delivery vehicle out of the street in the way of traffic. The redefining of the existing loading area will also reduce the existing curb cut from about 26 feet down to 10 feet, thereby creating an additional on street parking space. It will also allow for the Portland General Electric (PGE) electrical equipment to be hidden

from view and placed further off the sidewalk and into the site while still meeting PGE's requirement to have the equipment to be located within 25' of a local service street for servicing access.

- The outdoor use on the southern facing patios will be closed to customer use after 10:00pm and several signs are proposed at patio entrances that state: "South outdoor areas closed to customers after 10 PM."
- The loading zone space will be used for deliveries during normal business hours.
- At this time there are no tenants identified for the space. We expect to accommodate between 6 – 10 tenants, which could range from a food vendor to artist gallery space.
- We have no plans to have any amplified music at this time, but if things were to change any music would be in accordance with Chapter 18.10.010, Maximum Permissible Sound Levels for Land Use Zones, and any anticipated noises above these levels would be done through a noise variance permit.
- The project will meet all current State and local requirements and standards governing ventilation. The trash areas is anticipated to be serviced every day or every other day depending on the amount of use at that given time.
- While there have been picnic tables historically located in the right-of-way on both Thurman St and NW 28th Ave, there are no current plans to have tables and chairs in the right-of-way. If tenants choose to place tables and chairs in the right-of-way in the future it will be done in accordance with PBOT requirements.

Staff Response:

Staff notes that this Adjustment review is requested to adjust the following development standards:

1. To reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer; and
2. To reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street.

Concerns and comments relevant to the Adjustment requests and approval criteria are located in the *Zoning Code Approval Criteria* section below.

In response to comments related to traffic, congestion, and vehicle parking availability, staff notes that parking is not required in this location (due to the retail sales and service use proposed, the lot size, and transit availability, per Section 33.266.110.B.1.b and Table 266-1); these issues are therefore not relevant to the Adjustments requested.

In response to comments that this is a residential area and the use is overly intensive for this area, staff notes that the zoning of the site is Commercial/Mixed Use 2, which allows retail sales and service uses (including restaurants and bars) by right.

In response to the concerns about how the proposal does not meet Adjustment Approval Criterion B because it detracts from "livability" and "appearance" of the area, Staff notes the wording of this approval criterion:

*If in a residential, CII, 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;***

staff notes that *livability* and *appearance* only apply to this criterion when an Adjustment request is in a Residential zone. This site is in a Commercial zone, so only the second part of Criterion B applies (shown in bold). This criterion is discussed in the *Zoning Code Approval Criteria* section below.

In response to comments regarding some neighbor's building orientation preference toward NW Thurman Street (a more "commercial" street) instead of NW 28th Avenue (a more "residential" street), staff notes that the sites directly across both streets (to the north and west, respectively) are also zoned CM2d and therefore the proposal is oriented toward commercial

zoning to the west and north. The proposal includes a main entrance along the north façade, roof patio seating at the northwest corner of the building, and roof patio seating at the southern edge and southwestern corner of the building; the proposal does not have a single orientation. The only adjacent residentially-zoned site is the RM1 zoned site to the south.

In response to the assertion that approving the Adjustment request will allow a roof patio and seating within the setback, staff notes that the applicant submitted a revised plan set which increased the width of the landscape planter areas along the southernmost seating areas (lower courtyard, stadium seating, and lower rooftop deck) to 4 feet to allow for additional landscape buffer area and to eliminate customer seating areas within the minimum 10-foot building setback for abutting residential lots. (Exhibit C.2).

In response to concerns about there being tables and chairs in the sidewalk area, staff notes that this is not part of the Adjustment requests and, in order for a business to operate in the right-of-way (i.e. sidewalk), a Healthy Businesses Permit (through PBOT) must be reviewed and approved.

Off-site impacts (including noise, odor, and glare) are regulated under Zoning Code Section 33.262.

In response to concerns about potential damage to the neighboring residential building to the south, staff notes that damage to the north wall of neighboring residential building by the proposed business, or damage of any kind, is a civil issue between owners.

ZONING CODE APPROVAL CRITERIA

33.805.040 Adjustment 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 findings for the requested setback and loading space Adjustments are found below.

Setback Adjustment

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, and add ground level and second floor patios connected via an external stairway, which requires an Adjustment to reduce the minimum 10-foot building setback to 6 feet (for commercial lots abutting residential lots) along the south lot line, and to waive the L3 landscaping buffer.

The purpose statement (relevant sections in bold) and associated findings are found below:

33.130.215 Setbacks

The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial/mixed use zones. The setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air, and the potential for privacy for adjacent residential zones.

The front setback requirements for Civic Corridors in Eastern and Western pattern areas provide opportunities for additional pedestrian space and separation from the vehicle traffic along these major streets to create an environment for building users and pedestrians that is less impacted by close proximity to traffic, and provide opportunities for front landscaping reflective of the vegetated characteristics of these neighborhood pattern areas.

The minimum building setbacks along local service streets adjacent to residential zones work together with requirements for step downs in building height (33.130.210.B.2.b.) to ensure that there is a transition in street frontage characteristics to lower scale residential zones. In these situations, the building setback regulations promote street frontages with landscaping and residential uses to provide a transition and a cohesive street environment with similar street frontage characteristics on both sides of the street, and limit exterior display and storage to minimize impacts to nearby residentially-zoned areas.

At the ground level, the proposed building addition at the southeast corner of the site is set back 6 feet from the south lot line for a 6-inch length (partially enclosing and screening the electrical meter area), 8 feet from the south lot line for a 14-foot length (along the north edge of the electrical meter area) and 10 feet from the south lot line for a 34-foot length (at the back of the trash area) (as shown in Exhibit C.2). At the second level “lower rooftop deck,” the building addition is cantilevered over the trash area and electrical meter area and is uniformly 6 feet from the south lot line. A stairway and stadium seating are located to the west of this second level open patio. A ground level open patio (including a “lower courtyard” and “upper courtyard”) area is also proposed. Four-foot-wide planter boxes are proposed along the southern edges of the lower courtyard, stadium seating, and lower rooftop deck to provide a buffer between the customer area and the adjacent residential building. A 6-foot-wide access area (for trash pickup, electric meter access, and deliveries) is proposed along the southern edge of the site.

The residential building adjacent to the project to the south (Trolley car Lofts) includes a solid brick wall at its north façade. The northern facade of Trolley car Lofts is located zero feet from the shared lot line with the subject site. While there are no doors or windows along its northern edge, the 6 units within have partial roof patios. The second level patio of the proposed commercial development includes a smaller patio that is closest to the residential zone, which has a finished surface elevation about 10 feet beneath the top of Trolley car Loft’s parapet, and a larger second level patio which is set back 24 feet from the residential property line and has a finished surface elevation that is 8 feet lower than the top of the parapet (see Exhibit A.2, page 4). Because the second level patios are significantly lower than the Trolley car Lofts parapet, privacy to the residents of Trolley car Lofts will be promoted.

As noted in the *Proposal* section above, the applicant has revised their proposal to reduce the lower courtyard, stadium seating, and lower rooftop deck areas so they are no closer than 10 feet from the south lot line and to include 4-foot wide landscape planters with evergreen shrubs to form a screen 6 feet high. The wider landscaping area and reduced seating area will increase separation and provide additional privacy for Trolley car Lofts, and improve the overall site appearance.

While a full 10 feet of L3 landscape buffer is not proposed (due to access needs and design choices), one new small tree is proposed at the ground level and a 4-foot-wide landscape buffer (via planter boxes) will be provided along the southern edge of the lower courtyard, stadium seating, and lower rooftop deck areas. The planter height is proposed at 2 feet and, when combined with proposed 6-foot-tall shrubs, the vegetation will sit about 8 feet above the patios along the southern edge, where the building setback adjustment is requested. The proposed landscape includes evergreen shrubs to

provide year-round screening. Combined with the revised floorplans which do not provide customer seating within 10 feet of the southern lot line, the landscaping will further promote privacy and provide a transition to the neighboring residences to the south. It will also improve the appearance of the site by providing additional landscaping, as the current development has no landscaping. A condition of approval will require that the landscaped buffer areas along the southern edge of the seating areas (upper courtyard, lower courtyard, stadium seating, and lower rooftop deck) be continuously maintained in a healthy manner. Plants that die must be replaced in kind. A fine may be levied if the landscaping has not been maintained, and new plants required to be planted (to be consistent with Zoning Code Section 33.248.040 Landscaping and Screening Maintenance).

The proposed development is located to the north of the residential property thereby not compromising Trolley-car Lofts' southern exposure and access to sunlight. Additionally, as noted above, the second level patio area has a finished surface elevation about 10 feet beneath the top of Trolley-car Loft's parapet, thereby not compromising residential access to light.

As noted above, the southeastern section of the addition is proposed as close as 6 feet to the southern (residentially abutting) property line; however, about 50 feet of the 100-foot length of the southern façade is over 23 feet from the southern lot line, which is a substantial increase in distance over the 10-foot minimum building setback. The average southern façade setback is about 15 feet from the south lot line.

The setback purpose statement works together with the step-down building height requirements but, in this case, there is no step-down height required for the abutting residentially zoned lot line to the south. The maximum height of the structure, including the proposed partial second story addition is about 35-feet, which is about 22 percent lower than the maximum allowed 45-foot building height (Table 130-2). Furthermore, the southernmost 18 feet of the building, where the second level patio is proposed, is only about 14 feet in height. The partial second story addition is proposed to be set back 32 to 36 feet from the southern property line, a substantial distance beyond the minimum 10-foot building setback requirement. The proposed FAR is about 1.58:1 which is significantly lower than the maximum allowed FAR of 2.5:1 in this zone. The significantly reduced height and FAR results in an overall building scale reduction, which will help provide a transition to the adjacent Trolley-car Lofts development and will also help maintain light and air for residents of this building.

The Fire Bureau has reviewed the request for reduced building setback and offered no concerns with regards to separation for fire protection, or access for firefighting.

Loading Space Adjustment

A second Adjustment is requested to reduce the residential-abutting setbacks for a loading space from 5 feet (landscaped to the L4 standard) to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street. The relevant purpose statements and associated findings are found below:

33.266.310 Loading Standards

A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way.

While the loading space is legally existing, loading spaces are considered “exterior development” and therefore subject to nonconforming landscaping upgrades³, which means that if upgrades cannot be provided to meet current Zoning Code standards (i.e. setback and landscaping requirements), approval through an Adjustment review is required. The existing approximately 24-foot-wide x 90-foot-long paved loading area along the southern edge of the site is proposed to be reduced to 18 feet x 10 feet. As noted above, PBOT responded with no concerns regarding the Adjustment review and noted that reducing the existing curb cut as proposed, from about 24 feet to 10 feet, will add an additional on-street parking space and provide additional street tree plantings (Exhibit E.1).

The northernmost 4 feet of the loading space is proposed to be located between the southernmost building addition and the street, which – when occupied by a loading vehicle – will obscure only about 4% of the 96-foot-wide western building facade. The loading space is located along the southern property line and is connected to the 6-foot access area proposed at the south edge of the site. If the loading area was located anywhere else on site, it would obscure more of the building facade. New landscaping planters are proposed along the entire north edge and 4-foot-long portion of the east edge of the loading space. These planters will include one new small tree and, as noted above, 6-foot-tall evergreen shrubs for year-round screening. Additional new landscape planters (described above) are proposed within the former 24-foot-wide x 90-foot-long paved loading area. These features will help improve the appearance of the loading area and overall site.

As conditioned, 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 subject site is in a Commercial zone. At this location, the City’s Transportation System Plan classifies NW 28th Avenue as a Local Service Street and NW Thurman Street as a Neighborhood Collector, Transit Access Street, and City Bikeway. PBOT has indicated no concerns regarding the proposal’s consistency with the classification of adjacent streets.

Desired character of area

“Desired character” is defined in Zoning Code Chapter 33.910:

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.*

Pursuant to this definition, the desired character of this site is determined by the character statement of the CM2 zone, the purpose statements of the Design Overlay Zone and the Northwest Plan District, the Portland Citywide Design Guidelines, and the [Northwest District Plan](#).

CM2 zone

The character statement for the CM2 zone is in Zoning Code Section 33.130.030.C:

The Commercial/Mixed Use 2 (CM2) zone is a medium-scale zone intended for sites in a variety of centers, along corridors, and in other mixed use areas that have

³ Because the project valuation exceeds \$1 Million, nonconforming upgrades are required for this project.

frequent transit service. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to four stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, provide a strong relationship between buildings and sidewalks, and complement the scale of surrounding residentially zoned areas.

The Adjustment requests are to reduce the building and loading area setbacks and landscaping requirements along a residential-abutting lot line and to allow a portion of the loading area to be between the building addition and the street. As noted above, the addition proposed within the setback is a single-story addition with a roof patio which sits about 10 feet below Trolley car Loft's parapet, and landscape screening via planter boxes along the southern edge of the patio. The proposal includes only a partial second-story addition, which will be well under the maximum four stories, and will therefore complement the scale of surrounding residentially zoned areas. The paved and legally existing loading area along the southern edge of the site is proposed to be significantly reduced/narrowed, which will add an additional on-street parking space.

The proposed additions, patios, and loading area will be consistent with the CM2 zone's intentions of providing commercial uses with limited off-site impacts in an area with transit service (Including TriMet bus Line 26 along Northwest Thurman). The pedestrian-oriented development will be supportive of transit.

For these reasons, staff finds the proposal is consistent with the character statement for the CM2 zone.

Design Overlay Zone

The site is in the Design overlay zone, the purpose for which is in Zoning Code Section 33.420.010:

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- *Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;*
- *Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and*
- *Promotes quality and long-term resilience in the face of changing demographics, climate and economy.*

Rather than demolishing the existing commercial building, the applicant is proposing a renovation which will include 9 new, full-story ground floor windows along the north and west facades (currently windowless), new outdoor patios (including roof patios), and a partial second story. The new windows, as well as the proposed restaurants, indoor seating, and outdoor patio seating will encourage social interaction and foster inclusivity in people's daily experience and allow for year-round use regardless of the climate. While the 10-foot minimum building setback is proposed to be reduced to 6 feet, the applicant is providing a 10-foot distance (4 feet of which must be landscaped as described above) between the outdoor patio seating areas and the neighboring residential building to the south in order to build on the unique context of this site: a commercially zoned corner lot with an existing commercial building adjacent to residential zoning/development to the south.

Trash, delivery, and electric utility access are proposed at the southeast corner of the site where these areas will remain out of public view and away from the street facing façades. Unlike typical brick and mortar restaurants, the applicant is proposing 6 – 10 tenants, which could range from food vendors to artist gallery spaces (as noted in Exhibit A.2). By allowing multiple tenants with a range of retail sales and service uses, the commercial building should have flexibility for changing tenants and smaller scale restaurants and will therefore promote long-term resilience in the face of changing demographics and economy.

For these reasons, staff finds the proposal is consistent with the purpose statement for the Design overlay zone.

Northwest Plan District

The Northwest Plan District purpose statement can be found in Zoning Code Section 33.562.010:

The Northwest plan district implements the Northwest District Plan, providing for an urban level of mixed-use development including commercial, office, housing, and employment. Objectives of the plan district include strengthening the area's role as a commercial and residential center. The regulations of this chapter:

- *Promote housing and mixed-use development;*
- *Address the area's parking scarcity while discouraging auto-oriented developments;*
- *Enhance the pedestrian experience;*
- *Encourage a mixed-use environment, with transit supportive levels of development and a concentration of commercial uses, along main streets and the streetcar alignment; and*
- *Minimize conflicts between the mixed-uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary*

The proposed commercial development will achieve the Northwest Plan's objective of creating an urban level of mixed-use development. Along the north edge of the site, NW Thurman Street is classified as a "main street" (Portland Zoning Code per Map 562-7). The proposed renovation and additions will support a mix of different retail sales and service uses on a site with transit access and will therefore encourage transit supportive levels of development and a concentration of commercial uses along a main street. The proposal will also help strengthen the area's role as a commercial and residential center by providing additional commercial uses in an area with existing low, medium, and higher-density residential development. The proposed commercial building additions and renovations will enhance the pedestrian experience by including multiple retail sales and service options in a single building and providing outdoor patios.

As noted above, parking is not required for the proposal or relevant to the Adjustment request. No conflicts are anticipated between the mixed uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary.

For these reasons, staff finds the proposal is consistent with the purpose statement for the Northwest Plan District.

Portland Citywide Design Guidelines

The Portland Citywide Design Guidelines consist of a set of guidelines for design cases in community planning areas outside of the Central City. The Portland Community Design Guidelines focus on three tenets: **Context**, balancing the aspirations of the future desired character with today's setting; **Public Realm**, strengthening a building and site's relationship with the public rights-of-way and open spaces; and **Quality and**

Resilience, underscoring holistic site and building designs that benefit people and climate.

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

02: Create positive relationships with surroundings.

Possible design approaches may include, but are not limited to:

- *Building Massing – Developing effective placement and proportion of building massing toward adjacent lower-scale development and residential uses; and*
- *Street Wall – Maintaining a vibrant street wall with continuous storefronts along historic main streets.*

03: Integrate and enhance on-site features and opportunities to contribute to a location's uniqueness.

Possible design approaches may include, but are not limited to:

- *On-site older buildings and historic resources – retaining existing older buildings and historic resources; and*
- *Social and cultural significance – Incorporating a site's significant cultural or social history*

As noted above, the southeastern section of the addition is proposed as close as 6 feet to the southern property line; however, about half of the southern façade is much farther away, which helps offset the building's overall massing. The height of the proposed building (ranging from 14 to 35 feet) is 10 feet lower than the 45-foot height limit. The patio closest to the southern lot line sits about 10 feet lower than the top of Trolleycar Loft's parapet. The reduced massing and height and the step-down building design from north to south help provide a transition to the adjacent multi-dwelling development to the south.

As noted above, the applicant is proposing renovations and additions rather than demolishing the existing commercial building. The building design preserves the historic eastern half of the north façade (facing NW Thurman Street), which has special features including a corbeled brick parapet, entablature, large store windows and transom windows, and a decorative belt course above the windows (see Adjustment Criterion D below for additional information about the historic resource) and adds large ground floor windows along the remaining windowless portions of the north and west facades, strengthening the storefront connection to the commercial corner of NW Thurman Street and NW 28th Avenue.

The paved and legally existing loading area along the southern edge of the site (approximately 24-foot-wide x 90-foot-long) has been in use for over 60 years. As part of this Adjustment request, it is proposed to be reduced to an area of 18 feet x 10 feet. As noted above, PBOT responded with no concerns regarding the Adjustment review and noted that reducing the existing curb cut as proposed, from about 24 feet to 10 feet, will add an additional on-street parking space and provide additional street tree plantings.

05: Provide opportunities to pause, sit, and interact.

Possible design approaches may include, but are not limited to:

- *Seating – providing a variety of seating types for passersby and building users;*
- *Enclosure - Offering a comfortable buffer and distinction from the public realm; and*
- *Trees and Landscaping - Promoting health and wellness by helping to mitigate the effects of urban heat island.*

In addition to indoor seating, several different outdoor patio spaces are proposed to support the restaurant or other uses, including lower and upper “courtyards” at the ground level, a “stadium seating” area adjacent to the external stairway, which leads up to a “lower rooftop deck” and a “back rooftop deck” at the south side of the building (per

Exhibit C.2 Floorplans). A covered patio is also proposed at the northwest corner of the second floor. The terraced, connected outdoor areas will provide a variety of seating types for customers and will be connected to the interior spaces via entrance doors. An elevator is also proposed at the south edge of the second story addition for improved accessibility.

There is currently no landscaping on site. As noted above, one new small tree is proposed at the ground level and 4-foot-wide landscape planters with evergreen shrubs to form a 6-foot-high screen will be provided along the southern edge of the outdoor seating areas. Additional landscape planters are proposed outside of the setback area ranging from 3-feet-2-inches-wide (at the ground level between the upper courtyard and the loading space) to 2.5-feet-wide (at the south and west edges of the back rooftop deck). The landscaping will offer a comfortable buffer and distinction from the public realm and will also promote privacy and provide a transition to the neighboring residences to the south. The landscaping will also promote health and wellness by helping to mitigate the effects of urban heat island.

For these reasons, staff finds the proposal is consistent with the Portland Citywide Design Guidelines.

Northwest District Plan

The Northwest District Plan is intended to guide public and private decision-making and investment in the Northwest District. The plan provides policy direction in a number of key areas including land use, urban design, transportation, housing, and economic development. Staff has considered all objectives and has addressed only those considered applicable to this project. The subject site is classified as a *Streetcar Main Street* site (Map 4, Page C-15) and the *Desired Characteristics and Traditions* of these Streetcar Main Street sites are as follows:

The Streetcar Era structures that define the character of the main streets, portions of which are located within the Alphabet Historic District, should be preserved or adaptively reused. New development should incorporate architectural features that characterize the district's main streets, such as large storefront windows, awnings and upper-story residences, and should continue the historic pattern of a continuous frontage of buildings and active uses located close to sidewalks. Large retail developments should be integrated into the main streets' fine grain urban pattern and mix of uses through strategies such as including spaces suitable for small tenants along street frontages or by including upper-floor residences. Where appropriate, development should include outdoor space for dining and other activities that contribute to a vibrant urban environment. Disruptions to the continuity of the main street pedestrian environment by curb cuts, driveways, garage fronts and surface parking areas should be avoided. (Page C-18)

The open courtyard spaces at the south side of the building will provide active outdoor space for dining and a direct connection to the NW 28th Avenue right-of-way. The north and west facades of the existing building are zero feet from the sidewalks along NW Thurman Street and NW 28th Avenue, and will remain in this location. New, large, storefront windows are proposed to be added at the northwest corner of the building while retaining the historic character of the building (see Adjustment Criterion D below for additional information about the historic resource). The existing loading space curb cut is proposed to be reduced, which will add an additional on-street parking space and provide additional street tree plantings.

Land Use Objectives (Page E-6)

C. Concentrate a mix of higher intensity residential and commercial development along main streets and the Portland Streetcar line.

D. Reinforce main streets and the Portland Streetcar line as the focus for retail activity in the District.

Business and Economic Development Objectives (Page E-34)

- B. Encourage commercial development that is oriented to pedestrians.*
- E. Encourage new commercial development and job creation opportunities to locate along main streets, the Portland Streetcar line, and close to the I-405 freeway.*

Urban Design Objectives (Page E-38)

- A. Integrate new development with the existing urban fabric by acknowledging the scale, proportions, orientation, quality of construction and other architectural and site design elements of the building's immediate area.*

Thurman-Vaughn Subarea⁴ Objectives (Page E-70)

- A. Enhance NW Thurman Street as a neighborhood-oriented main street that is primarily residential, with commercial uses clustered at intersections.*

The proposed multi-tenant, retail sales and service use building would concentrate higher intensity commercial development at NW Thurman Street (which is classified as a *Main Street*) and would reinforce this street/intersection as a focus for retail activity in the Northwest District. The outdoor terraced seating areas with immediate access from the NW 28th Avenue sidewalk would encourage development that is oriented to pedestrians. Rather than proposing a demolition of the existing building, the applicant is proposing a renovation, which will maintain the historic character of the building while providing an appropriately scaled expansion.

For these reasons, staff finds the proposal is consistent with the purpose statement for the Northwest District Plan.

For all the reasons listed above, staff finds this proposal is consistent with the desired character of the area.

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:

As noted above, the character statement for the CM2 zone is:

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

As noted above, under Criterion B, the Adjustment requests are to reduce the building and loading area setbacks and landscaping requirements along a residential-abutting lot line. The addition proposed within this setback is a single-story addition with a roof patio which sits about 10 feet below Trolleycar Loft's parapet, and landscape screening via planter boxes along the southern edge of the patio. The proposal includes only a partial second-story addition, which will be well under the maximum four stories, and will therefore complement the scale of surrounding residentially zoned areas.

⁴ Per Map 5 (Page E-3), the subject site is identified as being in the Thurman-Vaughn Subarea.

While both Adjustment requests are to reduce residential-abutting setbacks and landscaping, the loading area is legally existing along the southern edge of the site, and is proposed to be significantly reduced and narrowed. Allowing a loading space to remain at zero feet from the residential-abutting lot line will not affect the scale of the proposed development on the adjacent residentially zoned site, and may reduce off-site impacts by adding an additional on-street parking space and allowing deliveries and maintenance to happen on-site rather than blocking NW 28th Avenue.

Because of the reduced height and scale of the overall building, and because of the loading area reduction and limited impacts, cumulative effects will be minimal and the proposed additions, patios, and loading area will be consistent with the CM2 zone's intentions of providing pedestrian-oriented commercial uses with limited off-site impacts in an area with transit service.

For these reasons, staff finds the proposal is consistent with the character statement for the CM2 zone.

This criterion is met.

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

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. This site is marked with a dot and designated as a “documented resource.” The existing building was originally built between 1914 and 1921 and is classified as an eligible/contributing building in the Historic Resource Inventory. The eastern half of the Thurman Street façade has a corbeled brick parapet, entablature, and a decorative belt course above the windows. Additional special features include large store windows and transom windows. These features will all be retained. Much of the exterior façade has been remodeled with new doors, windows, asphalt siding, and plywood. While the partial second-story addition will change the appearance of this façade, the roof profile at the historic portion of the building (described above), will remain as is, thus preserving the historically significant features of the front (north) façade.

As noted above in Criterion B, large, ground-floor windows along the remaining windowless north and west facades are proposed. Much of the original siding on this non-historically contributing section of the building is brick but was covered up by vertically clad composite material. This composite material will be removed, and brick will be repaired/replaced as necessary. This brick siding at the ground level will better match the historically significant front façade and help unify the building's design.

This criterion is met.

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

Findings:

While an Adjustment is requested to reduce the minimum residential-abutting (south) building setback from 10 feet to 6 feet at the southeastern addition to the building, the significantly reduced height and FAR (described under Criterion A above) reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.

While a full 10 feet of L3 landscape buffer is not proposed, one new small tree is proposed at the ground level and 4-foot-wide landscape planters will be provided along the southern edges of the “lower rooftop deck” and “lower courtyard” seating areas with 6-foot-tall evergreen shrubs. Combined with the revised floorplans which do not provide customer seating within 10 feet of the southern lot line, the landscaping will promote

privacy and provide a transition to the neighboring residences to the south. It will also add landscaping to a currently barren site. A condition of approval will require that the landscaped buffer areas be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

In order to address neighbor concerns about customer noise on the patios, particularly at night, the applicant has proposed a new gate/fence at the southwestern edge of the site to limit access when the business is closed (to be in compliance with City of Portland zoning and building code requirements) and signage at all patio access doors (2 on the ground level and 2 at the upper level) stating: "South outdoor areas closed to customers after 10 PM."

As conditioned, 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 Map with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, this criterion is not applicable.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

The applicant is proposing to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space. Two Adjustments are requested to:

1. reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer; and
2. reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street (NW 28th Avenue).

While an Adjustment is requested to reduce the minimum residential-abutting (south) building setback from 10 feet to 6 feet at the southeastern addition to the building, about half of the southern façade is over 23 feet from the southern lot line, which is a substantial increase in distance over the 10-foot minimum building setback, and helps offset the building's overall massing. Additionally, the maximum height of the structure, including the proposed partial second story addition is approximately 35-feet, which is substantially lower than the maximum allowed 45-foot building height. Furthermore, the southernmost 18 feet of the building, where the second level patio is proposed, is only about 14 feet in height, and sits about 10 feet lower than the top of Trolleycar Loft's parapet. The partial second story addition is proposed to be set back 32 to 36 feet from the southern property line, resulting in a step-down building design from north to south. The significantly reduced height and FAR (compared to what the CM2 zone allows) reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.

While a full 10 feet of L3 landscape buffer is not proposed, one new small tree is proposed at the ground level and 4-foot-wide landscape planters with 6-foot-tall evergreen shrubs will be provided along the southern edge of the seating areas where the building setback and landscaping adjustment is requested. Combined with the revised floorplans which do not provide customer seating within 10 feet of the southern lot line, the landscaping will promote privacy and provide a transition to the neighboring residences to the south. It will also improve the appearance of the site by providing additional landscaping, as the current development has no landscaping. A condition of approval will require that the landscaped buffer areas be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

The existing 24-foot-wide x 90-foot-long paved loading area along the southern edge of the site is proposed to be reduced to 18 feet x 10 feet. PBOT responded with no concerns regarding the Adjustment review and noted that reducing the existing curb cut as proposed, from about 24 feet to 10 feet, will add an additional on-street parking space and provide additional street tree plantings. The northernmost 4 feet of the loading space is proposed to be located between the southernmost building addition and the street, which will obscure only about 4% of the western building facade. The loading space is located along the southern property line and is connected to the 6-foot access area proposed at the south edge of the site. If the loading area was located anywhere else on site, it would obscure more of the building façade. New landscaping planters are proposed along the entire north edge and a portion of the east edge of the loading space, as well as within the existing 24-foot-wide x 90-foot-long paved loading area. These features will help improve the appearance of the loading area and overall site.

The “desired character” of this site is determined by the character statement of the CM2 zone, the purpose statements of the Design Overlay Zone and the Northwest Plan District, the Northwest District Plan, and the Portland Citywide Design Guidelines.

- The proposed additions, patios, and loading area will be consistent with the CM2 zone’s intentions of providing commercial uses with limited off-site impacts in an area with transit service.
- Rather than demolishing the existing commercial building, the applicant is proposing a renovation which will include 9 new, full-story ground floor windows along the (currently windowless) north and west facades, and new indoor dining and outdoor patio seating, which will encourage social interaction and foster inclusivity in people’s daily experience and allow for year-round use regardless of the climate. Trash, delivery, and electric utility access are proposed at the southeast corner of the site where these areas will remain out of public view and away from the street facing façades. By allowing multiple tenants with a range of retail sales and service uses, the commercial building should have flexibility for changing tenants and smaller scale restaurants, and will therefore promote long-term resilience in the face of changing demographics and economic conditions. For these reasons, staff finds the proposal is consistent with the purpose statement for the Design Overlay Zone.
- The proposal will include a mix of different retail sales and service uses on a site with transit access and will therefore encourage a concentration of commercial uses along NW Thurman (classified as a “main street”), strengthen the area’s role as a commercial and residential center, and enhance the pedestrian experience. For these reasons, staff finds the proposal is consistent with the purpose statements for the Northwest Plan District and the Northwest District Plan.
- The building design preserves the historic portions of the north façade and adds ground floor windows along the remaining portions of the north and west facades, strengthening the storefront connection to the commercial corner of NW Thurman Street and NW 28th Avenue. The proposed indoor and outdoor dining areas will provide a variety of seating types for customers and will be connected externally via stairways and internally via entrance doors. An elevator is also proposed at the south edge of the second story addition for improved accessibility. The proposed landscaping will offer a comfortable buffer and distinction from the public realm and promote health and wellness by helping to mitigate the effects of urban heat island. For these reasons, staff finds the proposal is consistent with the Portland Citywide Design Guidelines.

Because of the reduced height and scale of the overall building, and because of the loading area reduction and limited impacts, cumulative effects will be minimal and the proposed additions, patios, and loading area will be consistent with the CM2 zone's intentions as stated above.

The existing building was originally built between 1914 and 1921 and is classified as an eligible/contributing building in the Historic Resource Inventory. The eastern half of the Thurman Street façade has a corbeled brick parapet, entablature, and a decorative belt course above the windows. Additional special features include large store windows and transom windows. These features will all be retained. While the partial second-story addition will change the appearance of this façade, the roof profile at the historic portion of the, will remain as is, thus preserving the historically significant features of the front façade. Much of the original siding on this non-historically contributing section of the building is brick but was covered up by vertically clad composite material. This composite material will be removed, and brick will be repaired/replaced as necessary. The brick siding will better match the historically significant front façade and, along with the new ground floor windows, will help unify the building's design.

Impacts resulting from the Adjustments are mitigated to the extent practical as follows:

- The significantly reduced height and FAR reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.
- Customer seating will not be provided within 10 feet of the southern lot line
- The landscaping will promote privacy, provide a transition to the neighboring residences to the south, and improve the appearance of the site.
- In order to address neighbor concerns about customer noise on the patios, particularly at night, the applicant has proposed a new gate/fence at the southwestern edge of the site to limit access when the business is closed and signage at all patio access doors (2 on the ground level and 2 at the upper level) stating: "South outdoor areas closed to customers after 10 PM."

The proposal meets the applicable approval criteria and approval is therefore recommended.

ADMINISTRATIVE DECISION

Approval of 2 Adjustments to:

1. reduce the minimum 10-foot building setback to 6 feet, and to waive the L3 landscaping buffer(Section 33.130.215.B, Table 130-2); and
2. reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street (NW 28th Avenue) (Section 33.266.310.E, Table 266-8)

as part of a larger proposal to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and provide a loading space, per the approved plans and elevations, Exhibits C-1 through C-3, signed and dated February 28, 2023, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 22-159396 AD." All requirements must be graphically represented on the site plan, landscape, or other required plans and must be labeled "REQUIRED."

- B. The landscaped buffer areas along the southern edge of the seating areas (upper courtyard, lower courtyard, stadium seating, and lower rooftop deck, as shown on Exhibit C.2) must be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

Staff Planner: David Besley



Decision rendered by: _____ **on February 28, 2023.**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 3, 2023

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

Procedural Information. The application for this land use review was submitted on July 1, 2022, and was determined to be complete on October 31, 2022.

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 July 1, 2022.

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 requested that the 120-day review period be extended a maximum 245 days. **The 365-day extended review period (120 days + 245 day extension) will expire on: October 31, 2023.**

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 decision 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.

Appealing this decision. This decision may be appealed to the Adjustment Committee, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on March 17, 2023. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this**

decision. If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

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

Unless appealed, the final decision will be recorded after **March 17, 2023** by the Bureau of Development Services.

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

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

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

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

Applying for your permits. A building permit, occupancy permit, or development permit 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.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

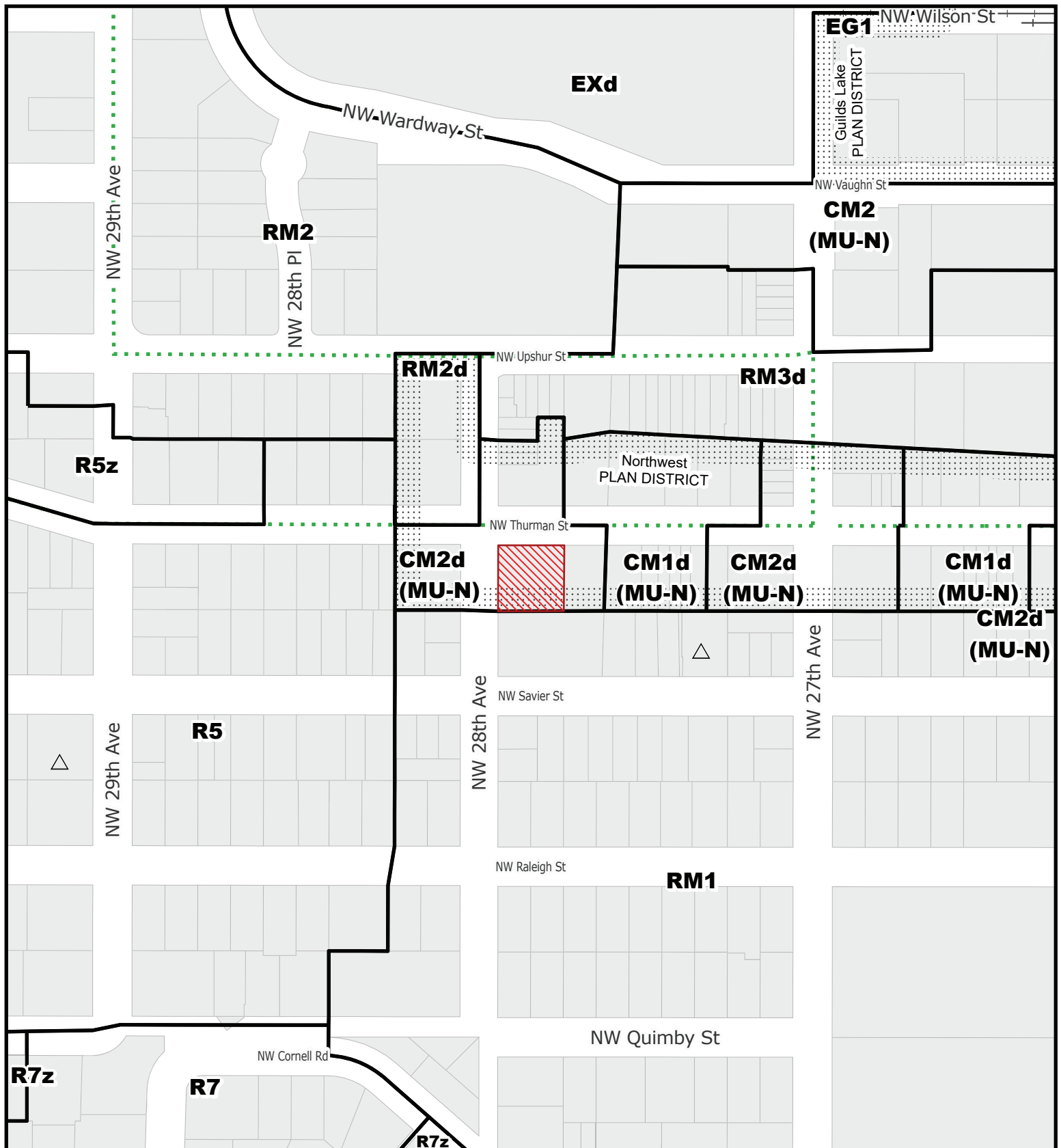
- A. Applicant submittal:
 - 1. Narrative
 - 2. Response to neighbors
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Floor Plans (attached)
 - 3. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Life Safety Section of BDS
 - 3. Bureau of Environmental Services
 - 4. Fire Bureau
 - 5. Bureaus responding with no concerns (Site Development Section of BDS and Water Bureaus)
- F. Correspondence:
 - 1. Elizabeth Rusch, 11/14/22, support letter
 - 2. Mary DeVries, 12/8/22, opposition letter
 - 3. John and Jo Ann Utz, 12/5/22, opposition letter
 - 4. Claire Hanway, 12/5/22, support letter
 - 5. Peter Beninato, 12/5/22, opposition letter
 - 6. Mike Kirk, 12/5/22, support letter
 - 7. Tom Barbara, 12/7/22, opposition letter
 - 8. Richard Hicks, 12/7/22, opposition letter
 - 9. Linda Walton, 12/7/22, opposition letter
 - 10. Greg Passmore, 12/7/22, support letter
 - 11. John DeVoe, 12/7/22, opposition letter
 - 12. Susie Stragnell, 12/7/22, opposition letter
 - 13. Glenn and Deanna Ford, 12/7/22, opposition letter 12/7/22, opposition letter
 - 14. Reinier Warschauer, 12/7/22, opposition letter
 - 15. Lisa Taaffe, 12/7/22, opposition letter
 - 16. Izhak Shafran, 12/7/22, opposition letter
 - 17. Sue Galatz, 12/8/22, opposition letter 2/8/22, opposition letter
 - 18. Greg Simons and Anne Harris, 12/8/22, opposition letter
 - 19. Shelley Jordan, 12/8/22, opposition letter
 - 20. Martin Davidson, 12/8/22, opposition letter
 - 21. Joni Marie Johnson, 12/8/22, opposition letter
 - 22. Gayle Kvernland, 12/8/22, opposition letter
 - 23. Patrick Kehoe, 12/8/22, opposition letter
 - 24. James Thompson, 12/8/22, opposition letter
 - 25. Northwest District Association (NWDA), 12/8/22, support letter
 - 26. Lisa Selman, 12/8/22, opposition letter
 - 27. David Greenstein, 12/8/22, opposition letter
 - 28. Olivia Horgan, 12/8/22, opposition letter
 - 29. Jim McAdoo/TLHOA , 12/8/22, opposition letter
 - 30. Mark Samuel and Wanda Meyer-Price, 12/8/22, opposition letter
 - 31. Bob Clay, 12/8/22, opposition letter
 - 32. Susan Stone, 12/8/22, opposition letter
 - 33. Regna Merritt, 12/8/22, opposition letter

34. Elliot Levin, 12/8/22, opposition letter
35. Jill Walworth, 12/8/22, opposition letter
36. Ernest Cooper, 12/8/22, support letter
37. Stacey Vallas, 12/8/22, opposition letter

G. Other:

1. Original LU Application and Receipt
2. Incompleteness determination letter, dated July 28, 2022
3. Request for Extension of 120-Day Review Period signed by applicant, dated January 2, 2023

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).



For Zoning Code in effect Post August 1, 2021

ZONING



THIS SITE LIES WITHIN THE:
NORTHWEST PLAN DISTRICT



Site



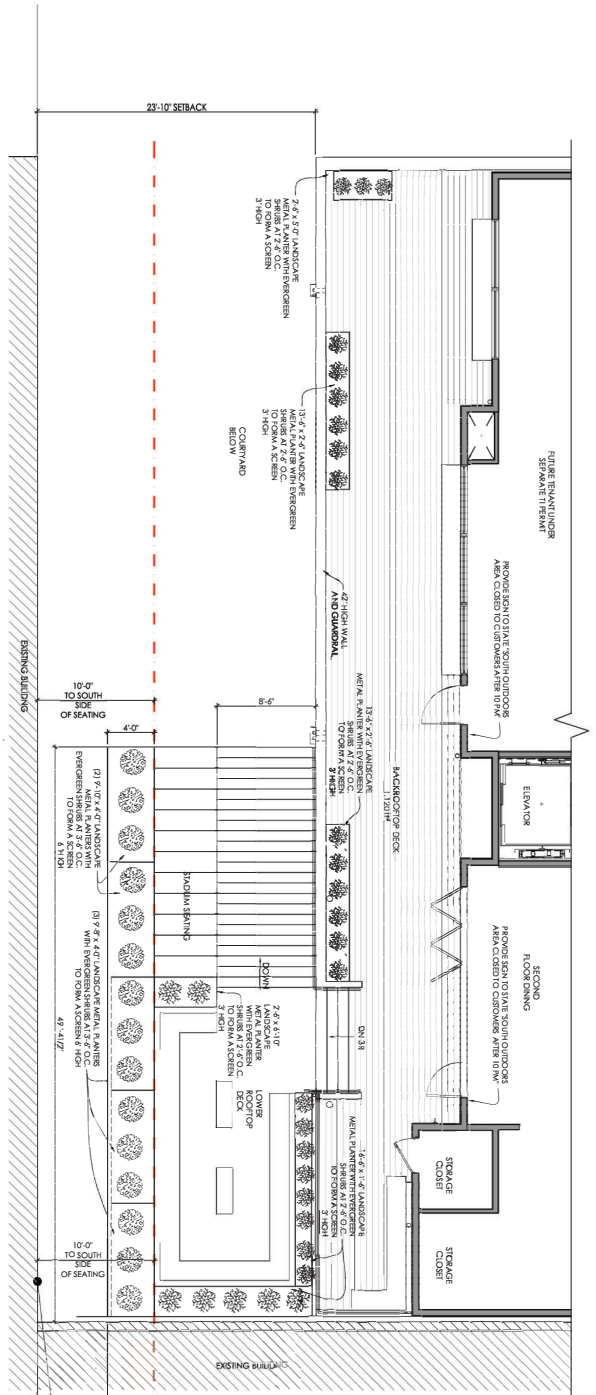
Historic Landmark



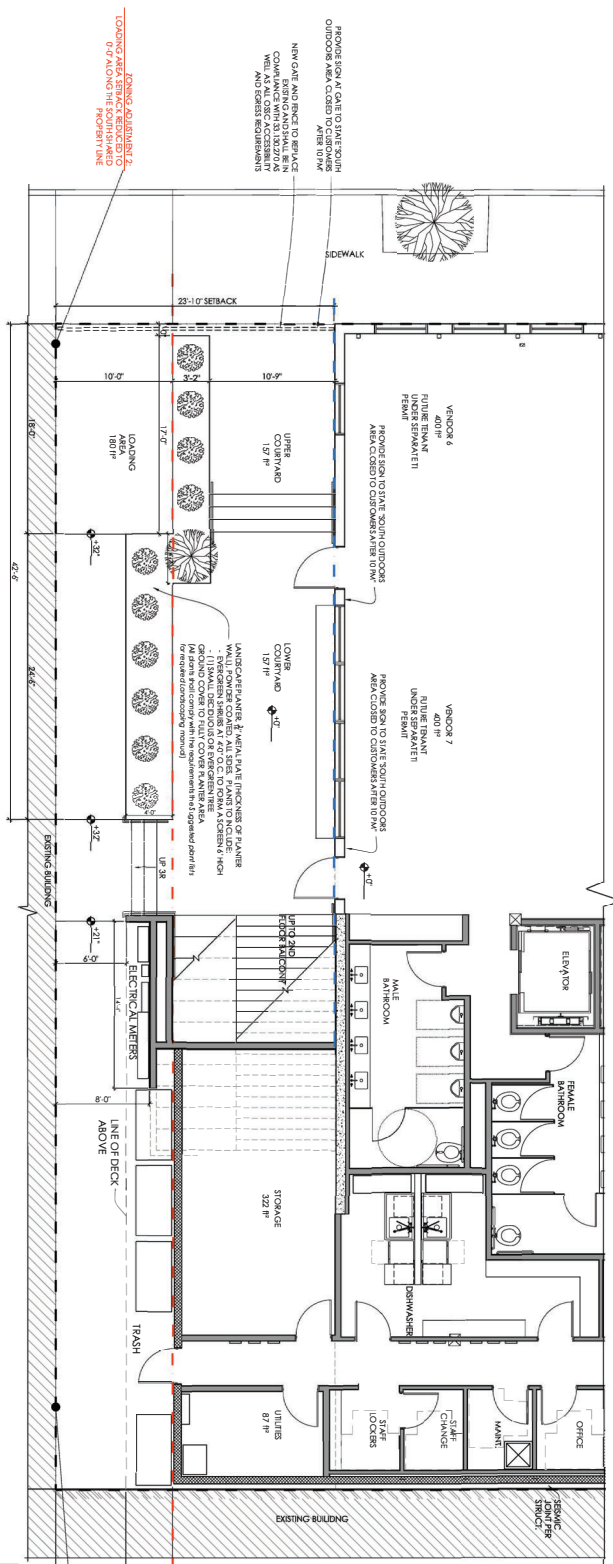
Recreational Trails

File No.	LU 22 - 159396 AD
1/4 Section	2826
Scale	1 inch = 200 feet
State ID	1N1E29DC 8600
Exhibit	B Jul 05, 2022

Exh. H.3
LU 22-159396 AD



2 PARTIAL SECOND FLOOR PLAN
3/16" = 1'-0"



1 PARTIAL FIRST FLOOR PLAN
3/16" = 1'-0"

Approved
City of Portland
Bureau of Development Services
Planner
David Besley
Date
2/28/23
*This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Exh. H.3
LU 22-159896 AD

- GENERAL NOTES:
1. SCENE SEE OUTDOOR AREAS CLOSED TO CUSTOMERS AFTER 10:00 PM
 2. BUILDING WILL BE IN CONFORMANCE WITH THE OREGON HOOKER CLIMATE ACT AND FOR REMOVED BUILDING STORIES RELATED TO LAMPING AND ALL OUTDOOR AREAS WILL BE IN CONFORMANCE WITH THE OREGON HOOKER CLIMATE ACT
 3. ALL OUTDOOR AREAS WILL BE IN CONFORMANCE WITH THE OREGON HOOKER CLIMATE ACT
 4. OUTDOOR AREAS WILL BE IN CONFORMANCE WITH THE OREGON HOOKER CLIMATE ACT

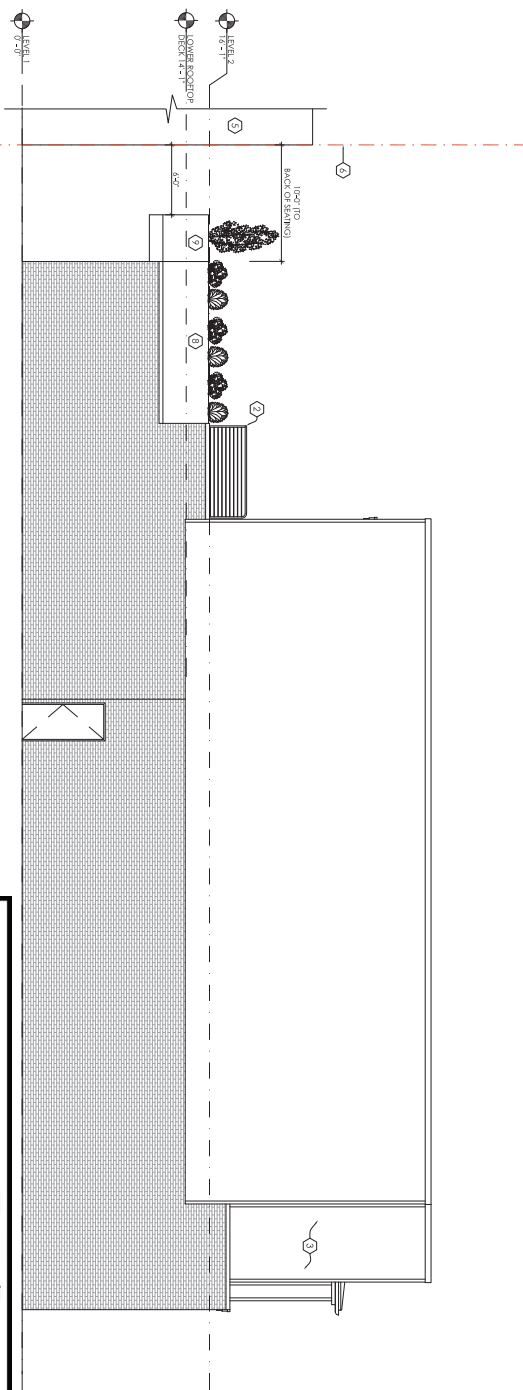
Partial
FLOOR PLANS

Zoning Adjustment
February 7, 2023
Thurman Food Hall
2774-2798 NW Thurman St.
Portland, OR

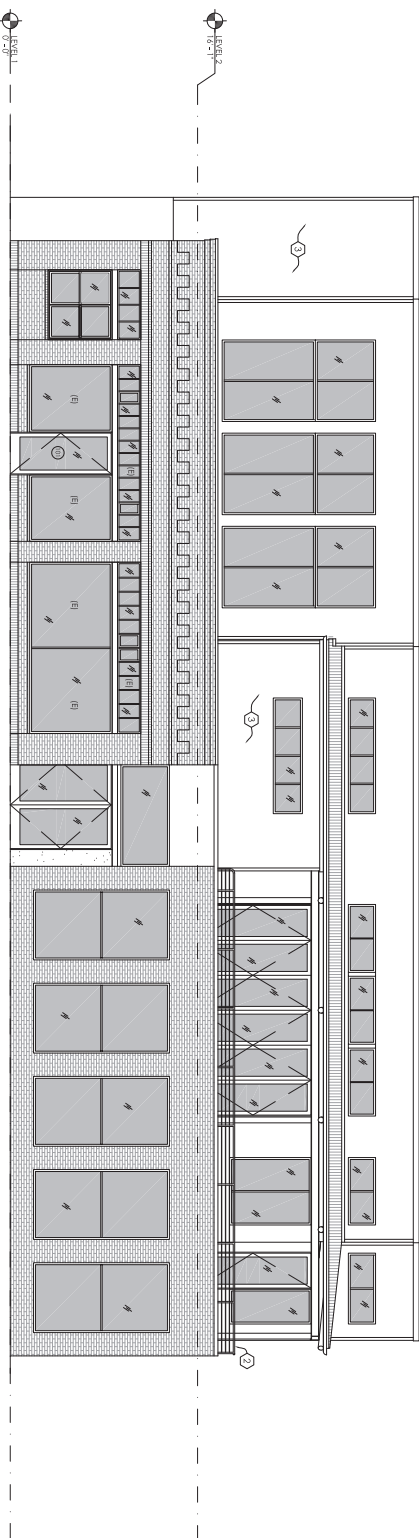
A1.2

ARCHITECTURE B PLANNING
www.abpdesign.com
© 2023 Architecture B Planning, LLC

1 EAST E 3/16" = 1'-0"



2
NORT
3/16" = 1'-0'



Approved
City of Portland
Bureau of Development Services
Planner **David Besley**
Date **2/28/23**

A3.1

Zoning Adjustment
February 7, 2023
Thurman Food Hall
74-2788 NW Thurman St.
Portland, OR

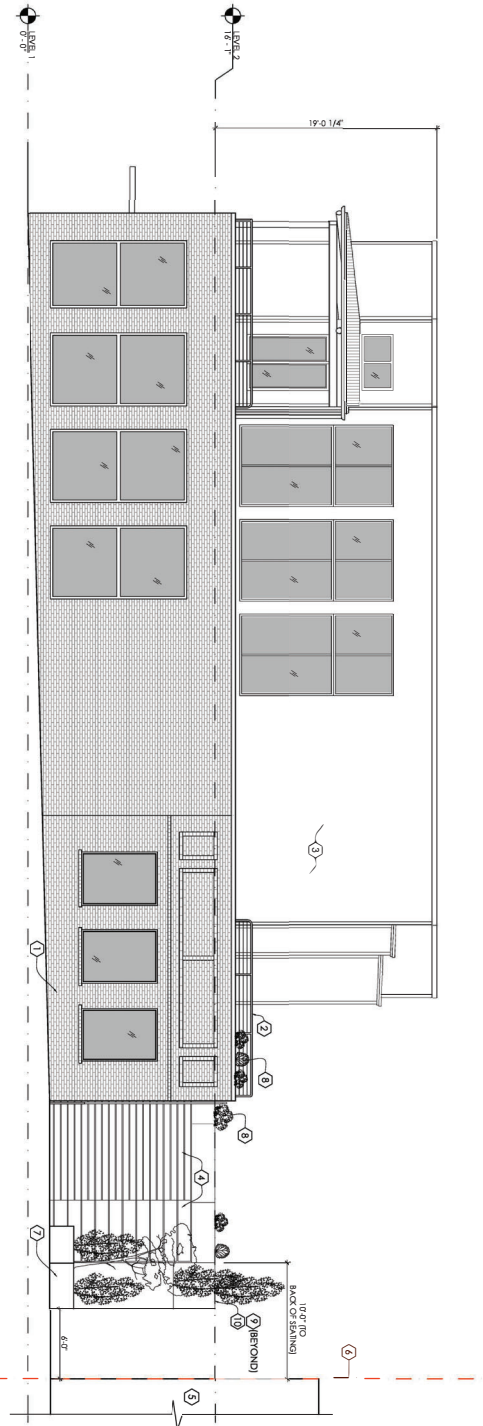
A3.1

Ex. C.3
LU 22-159396 AD

INTEGRATE
ARCHITECTURE & PLANNING
www.integratearch.com
©Integrate Architecture & Planning, p.c.

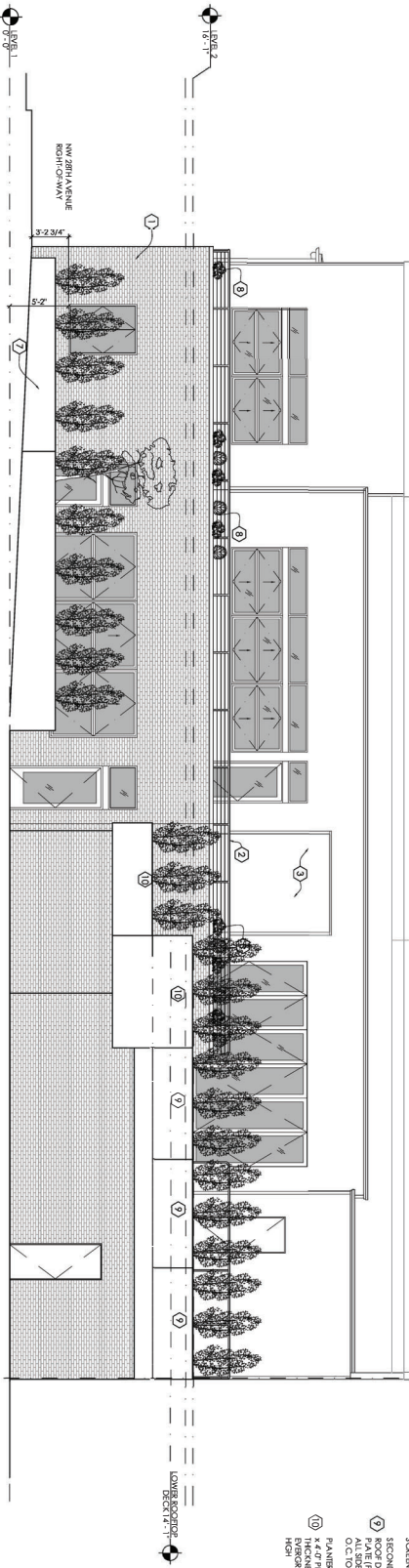
- [illegible]

KEY NOTES



1 WEST ELEVATION
3/16" = 1'-0"

Approved
City of Portland
Bureau of Development Services
Planner **David Besley**
Date **2/28/23**
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



2 SOUTH ELEVATION
3/16" = 1'-0"

KEY NOTES

- 1 EXISTING MASONRY WALL
- 2 BALCONY GLAZING
- 3 NEW SECOND FLOOR WALLS BEYOND
- 4 NEW STAIR AND BALCONY SECOND FLOOR BALCONY AREA ABOVE
- 5 EXISTING 100% CMU LOTTE BUILDING ADJACENT TO SOUTH SIDE OF SITE SEE EXHIBIT 2
- 6 SOUTH PROPERTY LINE
- 7 NEW LANDSCAPE PLANTER 2' METAL PLATE 18" = 18" PLANTER WALL THICKNESS POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 6' HIGH
- 8 PLANTER WALL THICKNESS POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 6' HIGH
- 9 SECOND FLOOR LANDSCAPE PLANTER, LANDSCAPE PLANTER AT SECOND FLOOR BALCONY/ROOF TOPS TO BE EVERGREEN SHRUBS AT 2'-0" TO FORM A SCREEN 3' HIGH
- 10 SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER PLATE (PLANTER WALL THICKNESS POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH
- 11 PLANTER AT SOUTH SIDE OF STAIRS ELEVATIONS: 10' x 10' PLANTER WALL THICKNESS POWDER COATED, ALL PLANTS TO BE EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH

Exh. C.3
LU 22-159396 AD

EXTERIOR ELEVATIONS

Zoning Adjustment
February 7, 2023
Thumson Food Hall
2774/2798 NW Thurman St.
Portland, OR

A3.2

INTEGRATE ARCHITECTURE & PLANNING
www.integratearch.com
© 2023 Integrate Architecture & Planning, LLC

Exh. H.3
LU 22-159396 AD

	A	B	C	D	E	F
1	ENDORSEMENT	INFO1	INFO2	NAME	ADDRESS/IO ADDRESS	CITY/STATE/ZIP/ADDRESSEE
2	RETURN SERVICE REQUESTED		1N1E29DC 4700	THURMAN II LLC	1235 N DUTTON AVE #E	SANTA ROSA CA 95401
3	RETURN SERVICE REQUESTED		1N1E29DC 5400	IRON MIKE LLC	2284 NW THURMAN ST	PORTLAND OR 97210-2519
4	RETURN SERVICE REQUESTED		1N1E29DC 5500	NW 28TH & THURMAN LLC	4027 N COLONIAL AVE	PORTLAND OR 97227
5	RETURN SERVICE REQUESTED		1N1E29DC 5600	HLAVACKA MELANIE & HLAVACKA PETER	1810 NW 28TH AVE	PORTLAND OR 97210
6	RETURN SERVICE REQUESTED		1N1E29DC 5700	RYDER CHRISTOPHER & WALKER AMANDA	1814 NW 28TH AVE	PORTLAND OR 97210
7	RETURN SERVICE REQUESTED	1N1E29DC 8500	GIULIETTI/SCHOUTEN AIA	ARCHITECTS PC	2800 NW THURMAN ST	PORTLAND OR 97210
8	RETURN SERVICE REQUESTED		1N1E29DC 8500	DIAMOND AGE LLC	2812 NW THURMAN ST	PORTLAND OR 97210
9	RETURN SERVICE REQUESTED		1N1E29DC 8500	STURGIS SUSAN TR & WAEHRER EDGAR TR	3484 NW RALEIGH ST	PORTLAND OR 97210
10	RETURN SERVICE REQUESTED		1N1E29DC 8700	PORTLANDIA HOLDINGS LLC	2768 NW THURMAN ST	PORTLAND OR 97210-2205
11	RETURN SERVICE REQUESTED		1N1E29DC 8700	THE DRAGONTREE INC	2768 NW THURMAN ST	PORTLAND OR 97210
12	RETURN SERVICE REQUESTED	1N1E29DC 88000	TROLLEYCAR LOFTS CONDOS ASSN	OF UNIT OWNERS	1704 NW 28TH AVE	PORTLAND OR 97210
13	RETURN SERVICE REQUESTED		1N1E29DC 8900	BENINATO PETER	PO BOX 10653	PORTLAND OR 97296-0653
14	RETURN SERVICE REQUESTED		1N1E29DD 13700	VIEN VERA E & VIEN EDWARD W	2744 NW THURMAN ST	PORTLAND OR 97210
15	RETURN SERVICE REQUESTED		1N1E29DD 13900	VINH PETER T & DIAZ ANA C	2751 NW SAVIER ST	PORTLAND OR 97210-2415
16	RETURN SERVICE REQUESTED		1N1E29DD 14000	SCHILLING ELIZABETH A TR	2743 NW SAVIER ST	PORTLAND OR 97210-2415
17	RETURN SERVICE REQUESTED		1N1E29DD 14100	CARSON CHRISTOPHER & HAUSER REGINA	2735 NW SAVIER ST	PORTLAND OR 97210-2415
18	RETURN SERVICE REQUESTED	1N1E29DD 90000	ASSOCIATION OF UNIT OWNERS	OF THURMAN COURTYARD	2743 NW THURMAN ST	PORTLAND OR 97210
19	RETURN SERVICE REQUESTED		1N1E29DD 90001	NAKAHAMA YVES MAKOTO	P O BOX 460	YACHTS OR 97498
20	RETURN SERVICE REQUESTED		1N1E29DD 90003	WILSON JOLENE & ZIMMERMAN EDWARD D	2743 NW THURMAN ST #8	PORTLAND OR 97210-2252
21	RETURN SERVICE REQUESTED		1N1E29DD 90004	WEBER CHRISTINE	2743 NW THURMAN ST #2	PORTLAND OR 97210
22	RETURN SERVICE REQUESTED		1N1E29DD 90006	JON & FLIP ANDERSON TR	29632 HARVEST DR SW	ALBANY OR 97321
23	RETURN SERVICE REQUESTED		1N1E29DD 90007	MC LAUGHLIN ANNE	2743 NW THURMAN ST #5	PORTLAND OR 97210-2252
24	RETURN SERVICE REQUESTED		1N1E29DD 90008	SIEG BRADY	2743 NW THURMAN ST #1	PORTLAND OR 97210
25				CURRENT RESIDENT	2763 NW THURMAN ST #12	PORTLAND OR 97210
26				CURRENT RESIDENT	2763 NW THURMAN ST #17	PORTLAND OR 97210
27				CURRENT RESIDENT	2763 NW THURMAN ST #3	PORTLAND OR 97210
28				CURRENT RESIDENT	2763 NW THURMAN ST #5	PORTLAND OR 97210
29				CURRENT RESIDENT	2763 NW THURMAN ST #9	PORTLAND OR 97210
30				CURRENT RESIDENT	2764 NW THURMAN ST	PORTLAND OR 97210
31				CURRENT RESIDENT	2767 NW SAVIER ST	PORTLAND OR 97210
32				CURRENT RESIDENT	2809 NW THURMAN ST	PORTLAND OR 97210
33				CURRENT RESIDENT	1715 NW 28TH AVE	PORTLAND OR 97210
34				CURRENT RESIDENT	1849 NW 28TH AVE	PORTLAND OR 97210
35				CURRENT RESIDENT	2743 NW THURMAN ST #4	PORTLAND OR 97210
36				CURRENT RESIDENT	2743 NW THURMAN ST #6	PORTLAND OR 97210
37				CURRENT RESIDENT	2763 NW THURMAN ST #4	PORTLAND OR 97210
38				CURRENT RESIDENT	2771 NW THURMAN ST	PORTLAND OR 97210
39				CURRENT RESIDENT	2813 NW THURMAN ST	PORTLAND OR 97210
40				CURRENT RESIDENT	1725 NW 28TH AVE	PORTLAND OR 97210
41				CURRENT RESIDENT	1853 NW 28TH AVE	PORTLAND OR 97210
42				CURRENT RESIDENT	2763 NW THURMAN ST #11	PORTLAND OR 97210
43				CURRENT RESIDENT	2763 NW THURMAN ST #15	PORTLAND OR 97210
44				CURRENT RESIDENT	2763 NW THURMAN ST #19	PORTLAND OR 97210
45				CURRENT RESIDENT	2763 NW THURMAN ST #2	PORTLAND OR 97210
46				CURRENT RESIDENT	2763 NW THURMAN ST #6	PORTLAND OR 97210
47				CURRENT RESIDENT	2763 NW THURMAN ST #7	PORTLAND OR 97210
48				CURRENT RESIDENT	2763 NW THURMAN ST #8	PORTLAND OR 97210
49				CURRENT RESIDENT	2781 NW SAVIER ST	PORTLAND OR 97210
50				CURRENT RESIDENT	2805 NW THURMAN ST	PORTLAND OR 97210
51				CURRENT RESIDENT	1841 NW 28TH AVE	PORTLAND OR 97210
52				CURRENT RESIDENT	1845 NW 28TH AVE	PORTLAND OR 97210
53				CURRENT RESIDENT	2743 NW THURMAN ST #3	PORTLAND OR 97210
54				CURRENT RESIDENT	2763 NW THURMAN ST #1	PORTLAND OR 97210
55				CURRENT RESIDENT	2763 NW THURMAN ST #10	PORTLAND OR 97210
56				CURRENT RESIDENT	2763 NW THURMAN ST #14	PORTLAND OR 97210
57				CURRENT RESIDENT	2763 NW THURMAN ST #16	PORTLAND OR 97210
58				CURRENT RESIDENT	2763 NW THURMAN ST #18	PORTLAND OR 97210
59				CURRENT RESIDENT	2817 NW THURMAN ST	PORTLAND OR 97210
60				CURRENT RESIDENT	2818 NW THURMAN ST	PORTLAND OR 97210
61	RETURN SERVICE REQUESTED	RESPONDENT	1N1E29DD 90005	MEYER-PRICE WANDA & SAMUEL MARK	PO BOX 676	CANNON BEACH OR 97110
62	RETURN SERVICE REQUESTED	RESPONDENT	1N1E29DD 13800	PASSMORE GREGORY & PASSMORE ERICA	2748 NW THURMAN ST	PORTLAND OR 97210
63	RETURN SERVICE REQUESTED		RESPONDENT	HORGAN OLIVIA	2804 NW SAVIER ST	PORTLAND OR 97210
64	RETURN SERVICE REQUESTED		RESPONDENT	COOPER ERNEST	2301 NW THURMAN STE Q	PORTLAND OR 97210
65	RETURN SERVICE REQUESTED		RESPONDENT	STONE SUSAN	2856 NW SAVIER ST	PORTLAND OR 97210
66	RETURN SERVICE REQUESTED		RESPONDENT	DEVORE JOHN	1725 NW 29TH AVE	PORTLAND OR 97210
67	RETURN SERVICE REQUESTED		RESPONDENT	SHAFFRAN IZHAK	2824 NW SAVIER ST	PORTLAND OR 97210
68	RETURN SERVICE REQUESTED		RESPONDENT	HICKS RICHARD	1725 NW 28TH AVE	PORTLAND OR 97210
69	RETURN SERVICE REQUESTED		RESPONDENT	BENINATO PETER	1715 NW 28TH AVE	PORTLAND OR 97210
70	RETURN SERVICE REQUESTED		RESPONDENT	BARBARA TOM	2736 NW THURMAN ST	PORTLAND OR 97210
71	RETURN SERVICE REQUESTED		RESPONDENT	RUSCH ELIZABETH	2757 NW RALEIGH ST	PORTLAND OR 97210
72	RETURN SERVICE REQUESTED		RESPONDENT	HANWAY CLAIRE	2923 NW SAVIER ST	PORTLAND OR 97210
73	RETURN SERVICE REQUESTED		RESPONDENT	KIRK MIKE	2928 NW SAVIER ST	PORTLAND OR 97210

	A	B	C	D	E	F
74	RETURN SERVICE REQUESTED	RESPONDENT	NORTHWEST DISTRICT ASSOCIATION	THEISEN GREG	2257 NW RALEIGH ST	PORTLAND OR 97210
75	RETURN SERVICE REQUESTED	OWNER/AGENT	NASCENT COLLECTIVE LLC	OPSAHL GREGG	PO BOX 29107	PORTLAND OR 97296
76	RETURN SERVICE REQUESTED	OWNERS AGENT	SAVIER DEVELOPMENT	OPSAHL ERIK	2724 NW SAVIER ST	PORTLAND OR 97210
77	RETURN SERVICE REQUESTED	APPLICANT	INTEGRATE ARCHITECTURE & PLANNING	SYDNOR PHILIP	1919 N KILPATRICK	PORTLAND OR 97217
78	RETURN SERVICE REQUESTED		NEIGHBORS WEST-NORTHWEST	GARRETT DARLENE URBAN	2257 NW RALEIGH ST	PORTLAND OR 97210
79	RETURN SERVICE REQUESTED		LAND USE CONTACT	NOB HILL BA	25 NW 23RD AVE #6-FMB 217	PORTLAND OR 97210
80	RETURN SERVICE REQUESTED		PORTLAND METRO REGIONAL SOLUTIONS	C/O DLCD REGIONAL REPRESENTATIVE	1600 SW FOURTH AVE #109	PORTLAND OR 97201
81	RETURN SERVICE REQUESTED		LAND USE CONTACT	FORT OF PORTLAND PLANNING	PO BOX 3529	PORTLAND OR 97208
82	RETURN SERVICE REQUESTED		LAND USE CONTACT	TRANSIT DEVELOPMENT	1800 SW FIRST AVE #300	PORTLAND OR 97201
83				PORTLAND PARK TRAIL	TATE WHITE	B106/R1302
84				LAND USE CONTACT	PROSPER PORTLAND	129/PROSPER
85					DAWN KRANTZ	B299/R5000

From: [Joel Soltman](#)
To: [Besley, David](#)
Subject: Re: Appeal - request to speak in support of the project @ 2778 NW Thurman
Date: Monday, April 3, 2023 11:53:12 AM

Thanks I will try to make the meeting also, but here is my written statement:

It is clear from the two appeal submissions that my neighbors don't like change. They don't think of the upside to the neighborhood, to the community, to the city, but only of the immediate negative impact this potential development could create on themselves. Reading their appeals, it is clear to me that they are hiding behind the required zoning variations requested to actually just act as general impediments to this development.

Let's go on a hypothetical, what if this development had been entirely within zoning codes, but there was still a right of appeal. Would these two appeals still have occurred? I'm almost certain the answer is "yes" since these appeals are not about the specific infractions but rather about the general dislike of this development bringin "unwelcome noise, smells and overflow diners" onto the sidewalk.

Even just considering this appeal is going to certainly drive away the next developer who wants to get bold, creative, and helpful in fixing this city's chronic housing issues and deal with an overly paternalistic building code. Do the right thing and let this approval go through.

On Tue, Mar 28, 2023 at 5:58 PM Besley, David <David.Besley@portlandoregon.gov> wrote:

Hi Joel,

Thank you for reaching out. You and any other supporters of the proposal are welcome/encouraged to attend the meeting and vocalize your views. The approximate schedule is as follows:

- Hearing presentation order:
 - Staff (10 minutes)
 - Appellant (10 minutes)
 - Supporters of Appellant (2 minutes each)
 - Principal opponent of the appeal (15 minutes)
 - Other opponents of the appeal (2 minutes each)**
 - Appellant rebuttal (5 minutes)

From: [Gail Rubin](#)
To: [Besley, David](#)
Subject: Objection to the appeal by the Trolleycar Lofts Homeowners Association of the Crackerjacks redevelopment project
Date: Sunday, April 16, 2023 9:26:53 AM

Hello Mr. Besley,

I support the Crackerjacks redevelopment project plan at NW 28th and NW Thurman streets, and object to the appeals by the Trolleycar Lofts Homeowners Association. I'm hopeful that this project will move forward as soon as possible so neighbors can start to enjoy it instead of living with a vacant lot. I've written the following letter and submitted it to the NW Examiner.

Pretend it's a city

Don't you just love a vibrant city? There's nothing better than neighbors gathering from across the spectrum to enjoy their community space. I can't wait for the new neighborhood rooftop deck and eatery at the now vacant lot of the former Crackerjacks Pub at NW 28th and Thurman. The proposed revitalization of a closed business could be the next great thing! What I don't like is a select group of people dictating the redevelopment plan based on "potential noise and other disruptions." Have a little faith that the establishment and patrons will respect their neighbors.

Why not be more welcoming to those who invest in our walkable neighborhood? We should be supporting ideas that enable small businesses to offer jobs and enhance our community. I hope the City's Design Commission hears this instead of those who appeal a good thing they can't see coming. I hope it opens soon!

Gail Rubin

NW Cornell Road



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

Carmen Rubio, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7310
TTY: (503) 823-6868
www.portland.gov/bds

Type II Land Use Appeal

MEMORANDUM

Date: April 13, 2023
To: Portland Design Commission
From: David Besley, BDS, Land Use Services, Title 33
(503) 865-6715 / david.besley@portlandoregon.gov
Re: LU 22-159396 AD – Commercial building addition/renovation and loading space modification at 2788 NW Thurman Street
Appeal of a Type II Adjustment Review Approval with Conditions – March 3, 2023

Included with this memo is a copy of the proposal for a new mixed-use development 2788 NW Thurman Street in preparation for the proposal's Type II Adjustment Review appeal, to be held on April 20, 2023. Please contact me with any questions or concerns.

I. OVERVIEW

Appeal of a Type II Staff Decision of Approval with Conditions of an Adjustment Review for a proposal to re-purpose an existing tavern into a retail sales and service space (including but not limited to restaurants) with 6-10 tenants, expand the building at the southeast corner, add a partial second floor, add ground level and second floor patios connected via an external stairway, and modify an existing loading space at the southeast corner of NW Thurman St and NW 28th Ave, and in the Northwest Plan District. The two (2) Adjustments were requested to:

1. reduce the minimum 10-foot building setback to 6 feet along the south lot line, and to waive the L3 landscaping buffer (PZC 33.130.215.B, Table 130-2); and
2. reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street (NW 28th Avenue) (PZC 33.266.310.E, Table 266-8).

NOTE: Because the Adjustment requests are for a site within in the Design Overlay Zone (the site is zoned CM2d), they are appealed to the Design Commission. **The Design Commission is only looking at conditions related to the Adjustment requests (along the south lot line)**, not whether or not the whole project is approvable.

II. DEVELOPMENT TEAM

Architect/Appellant Philip Sydnor, Integrate Architecture & Planning
Owner: Nascent Collective LLC

III. APPROVAL CRITERIA: Adjustment Approval Criteria A. through F. of Section 33.805.040:

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
- 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
- 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
- D.** City-designated scenic resources and historic resources are preserved; and
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and
- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable (*not applicable*).

IV. PROCEDURAL HISTORY

- Adjustment Review application submitted on July 1, 2022 and determined to be complete on October 31, 2022. The Adjustment notice was originally mailed November 7, 2022 and was re-noticed on November 18, 2022 to include elevation drawings.
- The applicant requested to extend the review period on January 2, 2023 to the maximum allowed 245 days.
- Staff decision of *Approval with Conditions* issued on March 3, 2023.
- Twenty-eight (28) neighbors collectively appealed the staff decision on March 16, 2023. James McAdoo, Representing the Trolley-car Lofts Homeowners Association, also appealed the staff decision on March 16, 2023
- The applicant submitted revised floor plans and elevations on April 13, 2023 as a result of a preliminary Life Safety meeting with BDS staff regarding accessibility and egress requirements. The revisions include the following changes:
 - Exterior stadium seating and stairs between patios are flipped (with stadium seating at the north and the stairway at the south) to provide an uninterrupted landing at the bottom of the staircase;
 - More detailed gate and fencing information has been added along the 28th avenue ROW at the west end of the courtyard and loading area;
 - A gate/ screen is provided at the west end of the trash and electric meter location to help better enclose this area; and
 - Stairs between south courtyard and southernmost access area are removed (slopes as determined by civil are indicated).

V. STAFF ANALYSIS

There are two appellants in this case:

- 1) Twenty-eight (28) neighbors are collectively appealing approval with conditions of the Adjustment requests. The 4-page appeal narrative is summarized as follows:
 - Adjustments do not equally or better meet the purpose of the zoning regulations.
 - Privacy, light, and air for the adjacent building will be impacted because there are sleeping areas, decks, and skylights at the 2nd floor which will be subject to noise of outdoor dining, evening lights and potential music.
 - The proposal does not complement the scale or intensity of the surrounding residentially zoned areas.
 - The loading zone is too small to accommodate garbage/delivery trucks, which will have to load on NW 28th Avenue, and could result in traffic buildup.
 - The proposed landscaping would not mitigate for impacts on the neighbors. “No amount of landscaping will mitigate the impact of large gatherings on the neighboring homes.”
 - There are concerns with the proposed loading space alterations, including concerns about increased traffic and pedestrian safety.
 - There are concerns that the proposal is not aligned with the Northwest Plan District character statement.
- 2) James McAdoo, Representing the Trolleycar Lofts Homeowners appealing approval with conditions of the Adjustment requests. The 3-page appeal narrative shares some of the above concerns and additional comments are summarized as follows:
 - The description of the adjacent Trolleycar Lofts in the administrative decision is inaccurate.
 - The project’s sound transmission will impact livability to Trolleycar Lofts, and “might not be fully attenuated by its origins’ elevations and distances.”

Staff Response:

Regarding the appeals to the Adjustment approval with conditions, Staff tried to strike a balance between the requirements of the standard and applicant’s request for some flexibility, given their proposed preservation of the existing building and working with the existing layout on site. The full staff Findings for this Adjustment can be found on pages 7-17 of the staff decision.

The purpose of the Setback standards (33.130.215) are as follows:

The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial/mixed use zones. The setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air, and the potential for privacy for adjacent residential zones . . .

The minimum building setbacks along local service streets adjacent to residential zones work together with requirements for step downs in building height to ensure that there is a transition in street frontage characteristics to lower scale residential zones. In these situations, the building setback regulations promote street frontages with landscaping and residential uses to provide a transition and a cohesive street environment with similar street frontage characteristics on both sides of the street, and limit exterior display and storage to minimize impacts to nearby residentially-zoned areas.

Staff found the proposal supported this condition because about half of the southern façade is over 23 feet from the southern lot line, which is a substantial increase in distance over the 10-foot minimum building setback, and helps offset the building's overall massing. Additionally, the maximum height of the structure, including the proposed partial second story addition is approximately 35-feet, which is substantially lower than the maximum allowed 45-foot building height. Furthermore, the southernmost 18 feet of the building, where the second level patio is proposed, is only about 14 feet in height, and sits about 10 feet lower than the top of the residential neighbor's (Trolleybar Lofts) parapet. The partial second story addition is proposed to be set back 32 to 36 feet from the southern property line, resulting in a step-down building design from north to south. The significantly reduced height and FAR (compared to what the CM2 zone allows) reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.

While a full 10 feet of L3 landscape buffer is not proposed, one new small tree is proposed at the ground level, and 4-foot-wide landscape planters with 6-foot-tall evergreen shrubs will be provided along the southern edge of the seating areas where the building setback and landscaping adjustment is requested. Combined with the floorplans which do not provide customer seating within 10 feet of the southern lot line, the landscaping will promote privacy and provide a transition to the neighboring residences to the south. It will also improve the appearance of the site by providing additional landscaping, as the current development has no landscaping. A condition of approval was included as follows:

The landscaped buffer areas along the southern edge of the seating areas (upper courtyard, lower courtyard, stadium seating, and lower rooftop deck, as shown on Exhibit C.2) must be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

In order to address neighbor concerns about customer noise on the patios, particularly at night, the applicant has proposed a new gate/fence at the southwestern edge of the site to limit access when the business is closed and signage at all patio access doors (2 on the ground level and 2 at the upper level) stating: "South outdoor areas closed to customers after 10 PM."

The purpose of the Loading Standards (33.266.310) are as follows:

A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way

The existing 24-foot-wide x 90-foot-long paved loading area along the southern edge of the site is proposed to be reduced to 18 feet x 10 feet, which meets the minimum requirements for a Standard B loading space. PBOT responded with no concerns regarding the Adjustment review and noted that reducing the existing curb cut as proposed, from about 24 feet to 10 feet, will add an additional on-street parking space and provide additional street tree plantings. The northernmost 4 feet of the loading space is proposed to be located between the southernmost building addition and the street, which will obscure only about 4% of the western building facade. The loading space is located along the southern property line and is connected to the 6-foot access area proposed at the south edge of the site. If the loading area was located anywhere else on site, it would obscure more of the building façade. New landscaping planters are proposed along the entire north edge and a portion of the east edge of the loading space, as well as within the existing 24-foot-wide x 90-foot-long paved loading area. These features will help improve the appearance of the loading area and overall site.

The purpose of the Northwest Plan District (33.562.010) is as follows:

The Northwest plan district implements the Northwest District Plan, providing for an urban level of mixed-use development including commercial, office, housing, and employment. Objectives of the plan district include strengthening the area's role as a commercial and residential center. The regulations of this chapter:

- *Promote housing and mixed-use development;*
- *Address the area's parking scarcity while discouraging auto-oriented developments;*
- *Enhance the pedestrian experience;*
- *Encourage a mixed-use environment, with transit supportive levels of development and a concentration of commercial uses, along main streets and the streetcar alignment; and*
- *Minimize conflicts between the mixed-uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary.*

The proposed commercial development will achieve the Northwest Plan's objective of creating an urban level of mixed-use development. Along the north edge of the site, NW Thurman Street is classified as a "main street" (per Map 562-7). The proposed renovation and additions will support a mix of different retail sales and service uses on a site with transit access and will therefore encourage transit supportive levels of development and a concentration of commercial uses along a main street. The proposal will also help strengthen the area's role as a commercial and residential center by providing additional commercial uses in an area with existing low, medium, and higher-density residential development. The proposed commercial building additions and renovations will enhance the pedestrian experience by including multiple retail sales and service options in a single building and providing outdoor patios.

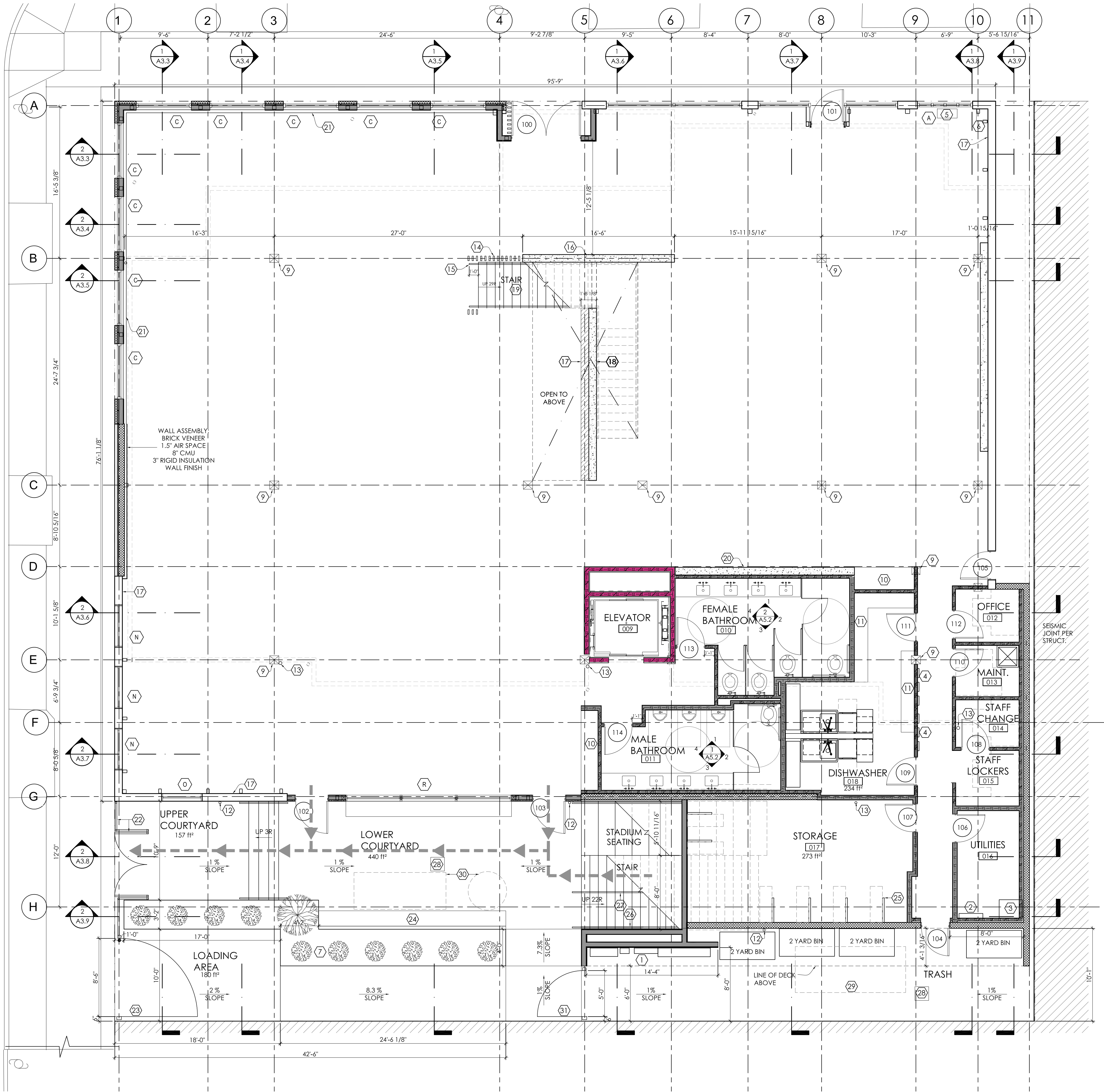
For these reasons, staff finds the proposal is consistent with the purpose statement for the Northwest Plan District.

VI. NEXT STEPS

- 1) Approve one or both of the appeals, overturning the staff decision of approval with conditions, which would require the proposal to meet the building setback and landscaping standards and/or the loading space setback and landscaping standards.
- 2) Deny one or both of the appeals and uphold the staff decision of approval with conditions;
- 3) Add, delete, or revise one or more conditions of approval from the original staff decision; or
- 4) Request the applicant to return with further revisions.

VII. LINKS

- Adjustment Approval Criteria (33.805.040) <https://www.portland.gov/sites/default/files/code/33.805-adjustments.pdf>
- Commercial / Mixed Use Corridors Zones (33.130) https://www.portland.gov/sites/default/files/code/130-c-zones_1.pdf
- Parking, Loading, And Transportation And Parking Demand Management (33.266) https://www.portland.gov/sites/default/files/code/266-parking_1.pdf
- Design Overlay Zone (33.420) <https://www.portland.gov/sites/default/files/code/420-design.pdf>
- Portland Citywide Design Guidelines <https://www.portland.gov/bps/doza/documents/portland-citywide-design-guidelines-2021/download>
- Northwest Plan District (33.562) <https://www.portland.gov/sites/default/files/code/562-northwest-pd.pdf>
- Northwest District Plan <https://www.portland.gov/bps/comp-plan/documents/northwest-district-plan-2003/download>



1 FIRST FLOOR PLAN
3/16" = 1'-0"

MAIN FLOOR PLAN KEY NOTES

- 1 ELECTRICAL METERS, SEE ELECTRIC PLANS
- 2 ELECTRICAL MAIN DISTRIBUTION PANEL, SEE ELECTRIC PLANS
- 3 ELECTRICAL TRANSFORMER - SEE ELECTRIC PLANS
- 4 VENDOR ELECTRICAL PANELS
- 5 DOMESTIC WATER BACK FLOW DEVICE
- 6 FIRE SPRINKLER BACK FLOW DEVICE
- 7 LANDSCAPE PLANTER, 1/2" METAL PLATE, POWDER COATED, ALL SIDES. PLANTS TO INCLUDE:
 - EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 6' HIGH
 - (1) SMALL DECIDUOUS TREE
 - GROUND COVER TO FULLY COVER PLANTER AREA
- 8 HSS VERTICAL SUPPORT, SEE STRUCTURAL
- 9 GLU-LAM COLUMN, SEE STRUCTURAL
- 10 BUSSING STATION
- 11 DISH STORAGE SHELVING, PROVIDE BLOCKING IN WALLS
- 12 DOWNSPOUT LOCATION
- 13 ROOF DRAIN PIPE FROM GUTTER AT SECOND FLOOR ROOF ABOVE
- 14 VERTICAL WOOD SCREEN AT NORTH SIDE OF INTERIOR STAIR
- 15 HANDRAIL AT FIRST STAIR RISER....
- 16 NEW CONCRETE SHEAR WALL ON GRID LINE B - SEE STRUCTURAL
- 17 EXISTING BRICK MASONRY WALL TO REMAIN AS ARCHITECTURAL FEATURE, SEE STRUCTURAL FOR STRENGTHENING REQUIREMENTS
- 18 NEW CONCRETE SHEAR WALL AT EXISTING INTERNAL MASONRY WALL TO REMAIN, SEE STRUCTURAL
- 19 OPEN RISER, HEAVY TIMBER STAIR TREADS....
- 20 NEW CONCRETE SHEAR WALL, SEE STRUCTURAL
- 21 FURR OUT INTERIOR WALL, 2x4 W/ 5/8" GYP, TO 18" ABOVE SLAB
- 22 8'-0" HIGH STEEL FENCE AND GATE AT WEST SIDE OF UPPER COURTYARD ALONG 28TH AVENUE R.O.W., SEE EXTERIOR ELEVATIONS, GATE TO BE EQUIPPED WITH PANIC HARDWARE AT EGRESS SIDE/ COURTYARD SIDE
- 23 HINGED STEEL GATE AT WEST SIDE OF LOADING AREA, SEE EXTERIOR ELEVATIONS
- 24 CONTINUOUS WOOD SEATING BENCH
- 25 LONG TERM BIKE PARKING RACK, (6) TOTAL, TO BE MOUNTED TO CMU WALL IN BIKE STORAGE
- 26 CONTINUOUS METAL HANDRAIL AT SOUTH SIDE OF STAIR
- 27 CONTINUOUS METAL HANDRAIL AT CENTER OF STAIR
- 28 18" x 18" CATCH BASIN - SEE CIVIL PLANS
- 29 GREASE INTERCEPTOR BELOW GRADE - SEE CIVIL PLANS
- 30 STORM WATER DETENTION TANK (BELOW GRADE) AND FLOW CONTROL MANHOLE - SEE CIVIL PLANS
- 31 HINGED STEEL GATE / SCREEN AT WEST SIDE OF ELECTRIC METERS AND TRASH AREA (AT GRID 5)

FLOOR PLAN GENERAL NOTES

1. All exterior concrete walls to remain
- NEW INTERIOR PARTITION, SEE SHEET A0.3
- EXISTING PARTITION
- EXISTING EXTERIOR WALL
2. Contractor to verify all conditions and dimensions before and during construction. Notify architect of any discrepancies prior to and during construction.
3. All work to be performed in strict compliance with local, state, & federal codes & ordinances.
4. All construction is to comply with the 2019 Oregon Energy Code
5. Do not scale drawings.
6. All dimensions are to face of framing unless otherwise noted.
7. Provide blocking & fire stopping to meet all applicable codes.
8. Seal all construction joints, plumbing and electrical penetrations to ensure maximum air tightness and insulation.
9. Coordinate with architect for HVAC equipment, duct, and vent locations.
10. Provide smoke and carbon monoxide detectors as required by code.
11. Mechanical, Plumbing, Electrical and Communications systems are Design/Build, Design/Build contractors to submit drawings to building department for all required permits and to Architect for review.
12. Contractor to coordinate all hardware with owner requirements, and shall match owner requirements.
13. All mounting heights shall comply with all local and state ADA, and building code's restrictions and requirements.
14. See 2/A-- for typical interior partition assemblies and improvements to existing horizontal assemblies.
15. Paint to be washable

DOOR AND FRAME SCHEDULE

DOOR #	DOOR			TYPE	MATERIAL	FINISH	FRAME		FIRE RATING	HARDWARE		NOTES
	WD	HGT	THK				MATERIAL	FINISH		SET NO		
100	PR 3'-9"	8'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
101	3'-6"	8'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
102	3'-6"	7'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
103	3'-6"	7'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
104	3'-0"	7'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
105	3'-0"	7'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
106	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
107	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
108	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
109	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
110	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
111	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
112	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
113	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
114	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	

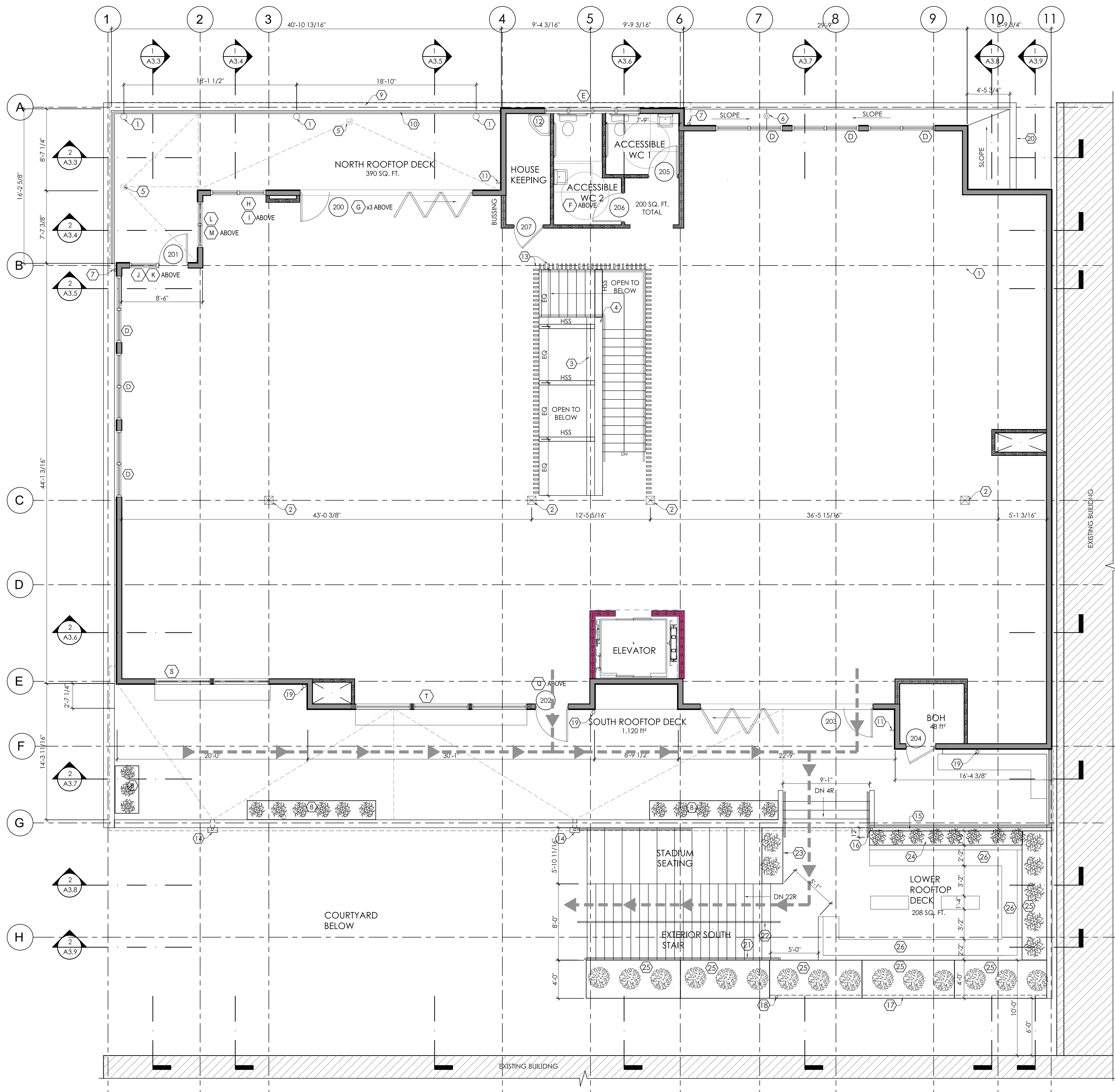
FIRST FLOOR PLAN

Design Development
April 13, 2023
Thurman Food Hall
2774-2788 NW Thurman St.
Portland, OR

A2.1

INTEGRATE
ARCHITECTURE & PLANNING
www.integratearch.com
© Integrate Architecture & Planning, p.c.

Exh. H.8
LU 22-159396 AD



5,376 GROSS SQ. FT. BUILDING
(DOES NOT INCLUDE ELEVATOR
AND STAIR OPENING)

2,226 GROSS SQ. FT. BALCONY AREA

NET INDOOR SEATING AREA = 3,233 SQ. FT. (62%)
TOTAL VENDOR AREA = 1,413 SQ. FT. (26.6%)
BOH + BATHROOMS = 416 SQ. FT. (7.8%)

(note, remaining unaccounted
building area is related
to exterior walls)

SECOND FLOOR PLAN KEY NOTES

- 6" STD PIPE COLUMN, PAINTED, SEE STRUCTURAL
- GLU-LAM POST - SEE STRUCTURAL
- TOP OF EXISTING BRICK WALL TO REMAIN, SEE STRUCTURAL
- TOP OF NEW CONCRETE SHEAR WALL, SEE STRUCTURAL
- COVERED NORTH BALCONY FLOOR DRAIN, SEE PLUMBING PLANS
- ROOF DRAIN, SEE PLUMBING PLANS
- DOWNSPOUT FROM NORTH BALCONY ROOF, SEE PLUMBING PLANS
- 8" STEEL PLATE PLANTER, POWDER COATED
- PARAPET, SEE EXTERIOR ELEVATIONS
- GUARDRAIL AT TOP OF PARAPET, TOP OF = 42" ABOVE BALCONY FLOOR
- HOSE BIB, SEE PLUMBING PLANS
- MOP SINK
- VERTICAL WOOD SCREEN:
- SCUPPER & DOWNSPOUT AT SOUTH BALCONY / SOUTH FACADE
- CONTINUOUS 19'-2" LONG BOX GUTTER AT EAST END OF SOUTH BALCONY
- DOWNSPOUT AT WEST END OF GUTTER (PENETRATES LOWER ROOFTOP DECK FLOOR / STORAGE ROOM CEILING)
- CONTINUOUS 29'-2" LONG BOX GUTTER AT SOUTH SIDE OF LOWER ROOF TOP DECK (BELOW PLANTERS, SEE SECTION...)
- DOWNSPOUT AT WEST END OF GUTTER AT LOWER ROOFTOP DECK
- DOWNSPOUT LOCATION FROM GUTTER AT SECOND FLOOR ROOF, (DOWNSPOUT TO PENETRATE BALCONY FLOOR / 1ST FLOOR CEILING ASSEMBLY) . (3 TOTAL)
- TOP OF EXISTING MASONRY PARAPET TO REMAIN, HEIGHT VARIES FROM 12" TO 16" ABOVE ROOFING
- CONTINUOUS METAL HANDRAIL AT SOUTH SIDE OF STAIR
- CONTINUOUS METAL HANDRAIL AT CENTER OF STAIR
- REQUIRED PLANTER: 2'-6" x 5'-10" LANDSCAPE METAL PLANTER WITH EVERGREEN SHRUBS AT 2'-6" x 5'-10" O.C. TO FORM A SCREEN 3' HIGH
- REQUIRED PLANTER: 16'-0" x 1'-6" LANDSCAPE METAL PLANTER WITH EVERGREEN SHRUBS AT 2'-6" O.C. TO FORM A SCREEN 3' HIGH
- REQUIRED PLANTER: 13'-6" x 2'-6" LANDSCAPE METAL PLANTER WITH EVERGREEN SHRUBS AT 2'-6" O.C. TO FORM A SCREEN 3' HIGH
- REQUIRED PLANTERS: 9'-8" x 4'-0" LANDSCAPE METAL PLANTERS WITH EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH, FIVE TOTAL
- CONTINUOUS BENCH AT LOWER ROOFTOP DEK

FLOOR PLAN GENERAL NOTES

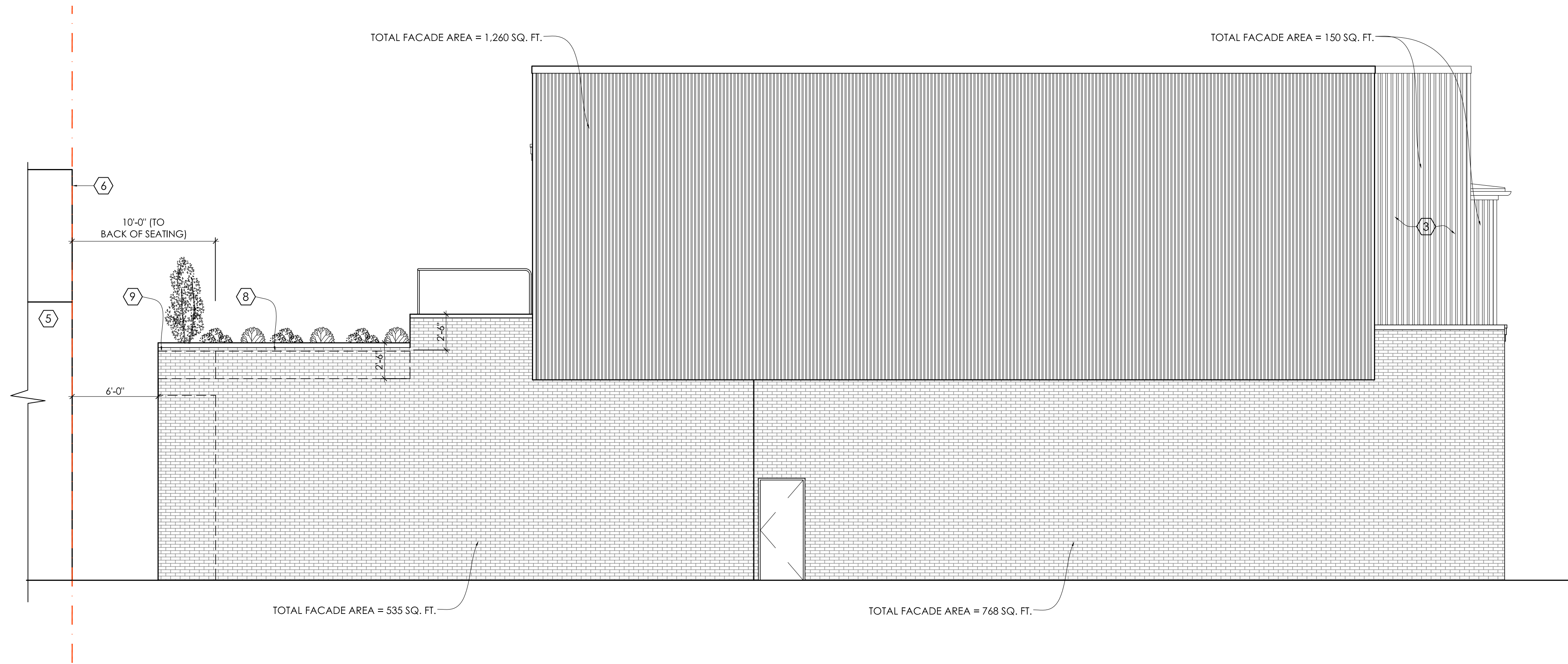
- All exterior concrete walls to remain
- Contractor to verify all conditions and dimensions before and during construction. Notify architect of any discrepancies prior to and during construction.
- All work to be performed in strict compliance with local, state, & federal codes & ordinances.
- All construction is to comply with the 2019 Oregon Energy Code
- Do not scale drawings.
- All dimensions are to face of framing unless otherwise noted.
- Provide blocking & fire stopping to meet all applicable codes.
- Seal all construction joints, plumbing and electrical penetrations to ensure maximum air tightness and insulation.
- Coordinate with architect for HVAC equipment, duct, and vent locations.
- Provide smoke and carbon monoxide detectors as required by code.
- Mechanical, Plumbing, Electrical and Communications systems are Design/Build, Design/Build contractors to submit drawings to building department for all required permits and to Architect for review.
- Contractor to coordinate all hardware with owner requirements, and shall match owner requirements.
- All mounting heights shall comply with all local and state ADA, and building code's restrictions and requirements.
- See 2/A--- for typical interior partition assemblies and improvements to existing horizontal assemblies.
- Paint to be washable

SECOND FLOOR		DOOR AND FRAME SCHEDULE										
DOOR #	DOOR						FRAME		FIRE RATING	HARDWARE		NOTES
	WD	HGT	THK	TYPE	MATERIAL	FINISH	MATERIAL	FINISH		SET NO		
201	3'-0"	7'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000		Exterior
202	3'-4"	10'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000		Exterior
204	3'-0"	7'-0"	1 3/4"	F	MTL	FF	MTL	FF	--	0.000		Exterior, insulated
205	3'-0"	6'-8"	1 3/8"	F	SC	PT	WD	PT	--	0.000		Private bathroom
206	3'-0"	6'-8"	1 3/8"	F	WD	PT	WD	PT	--	0.000		Private bathroom
207	3'-0"	6'-8"	1 3/8"	F	WD	PT	HM	PT	--	0.000		--
200	18'-2" ?	10'-2" ?	1 3/4"	FG	AL/C	FF	AL/C	FF				BI-FOLD EXTERIOR
203	18'-2" ?	10'-2" ?	1 3/4"	FG	AL/C	FF	AL/C	FF				BI-FOLD EXTERIOR

2ND FLOOR PLAN

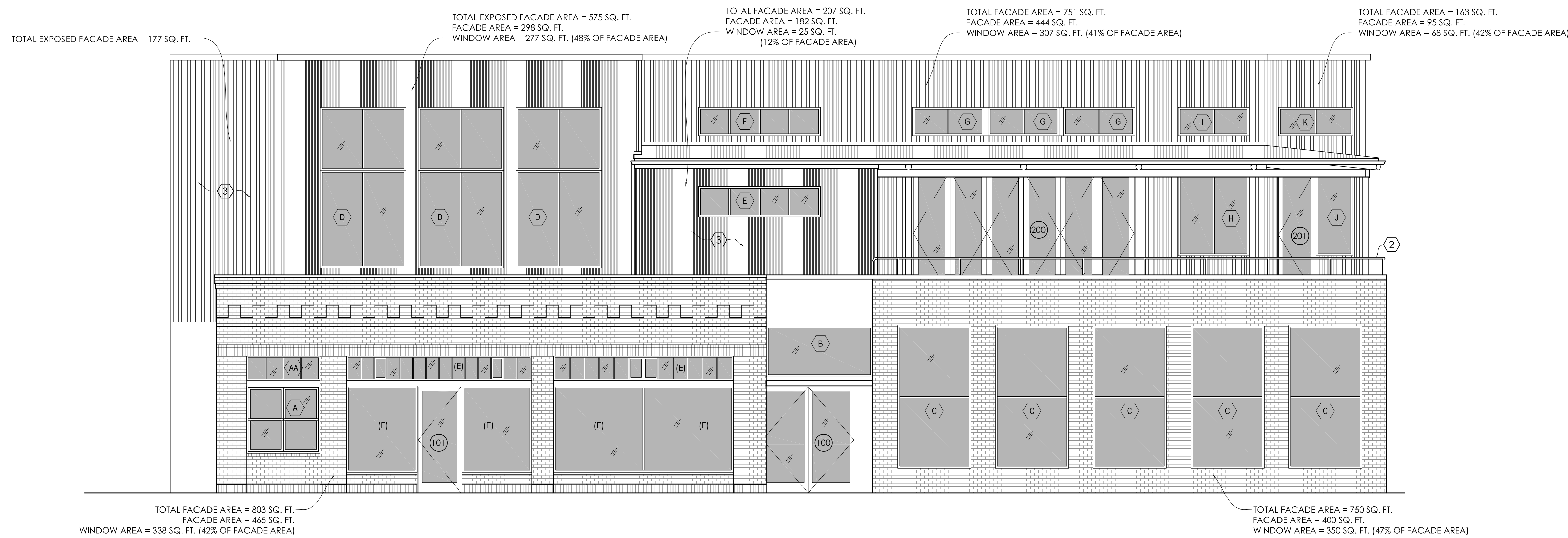
Design Development
April 13, 2023
Thurman Food Hall
2774-2788 NW Thurman St.
Portland, OR

A2.2



- KEY NOTES**
- ① EXISTING MASONRY WALL
 - ② BALCONY GUARDRAIL
 - ③ NEW SECOND FLOOR WALLS BEYOND
 - ④ NEW STAIRS AND SEATING TO SECOND FLOOR BALCONY AREA ABOVE
 - ⑤ EXISTING TROLLEY CAR LOFTS BUILDING, ADJACENT TO SOUTH SIDE OF SITE. SEE EXHIBIT 4
 - ⑥ SOUTH PROPERTY LINE
 - ⑦ NEW LANDSCAPE PLANTER, $\frac{3}{4}$ " METAL PLATE ($\frac{1}{2}$ " = PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO INCLUDE:
 - EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 6' HIGH
 - (1) SMALL DECIDUOUS OR EVERGREEN TREE
 - GROUND COVER TO FULLY COVER PLANTER AREA(All plants shall comply with the requirements the Suggested plant lists for required Landscaping manual)
 - ⑧ SECOND FLOOR LANDSCAPE PLANTER: ALL LANDSCAPE PLANTERS AT SECOND FLOOR BALCONIES/ ROOF TOP DECKS TO BE $\frac{3}{4}$ " METAL PLATE (PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO INCLUDE EVERGREEN SHRUBS AT 2'-6" O.C. TO FORM A SCREEN 3' HIGH
 - ⑨ SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER ROOF DECK AND OUTDOOR STAIRS: (5) 9'-8" x 4'-0" PLANTERS TO BE $\frac{3}{4}$ " METAL PLATE (PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO BE EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH
 - ⑩ STEEL FENCE WITH (2) PEDESTRIAN GATES AND (1) LOADING GATE. LOCKABLE PEDESTRIAN GATE W/ EXTERIOR GRADE LATCH AND HARDWARE (GATE TO REMAIN UNLOCKED DURING BUSINESS HOURS. PANIC EXIT HARDWARE ON EGRESS SIDE OF GATE, TYP.
 - ⑪ HINGED STEEL GATE / SCREEN AT WEST SIDE OF ELECTRIC METERS AND TRASH AREA

1 EAST ELEVATION
1/4" = 1'-0"

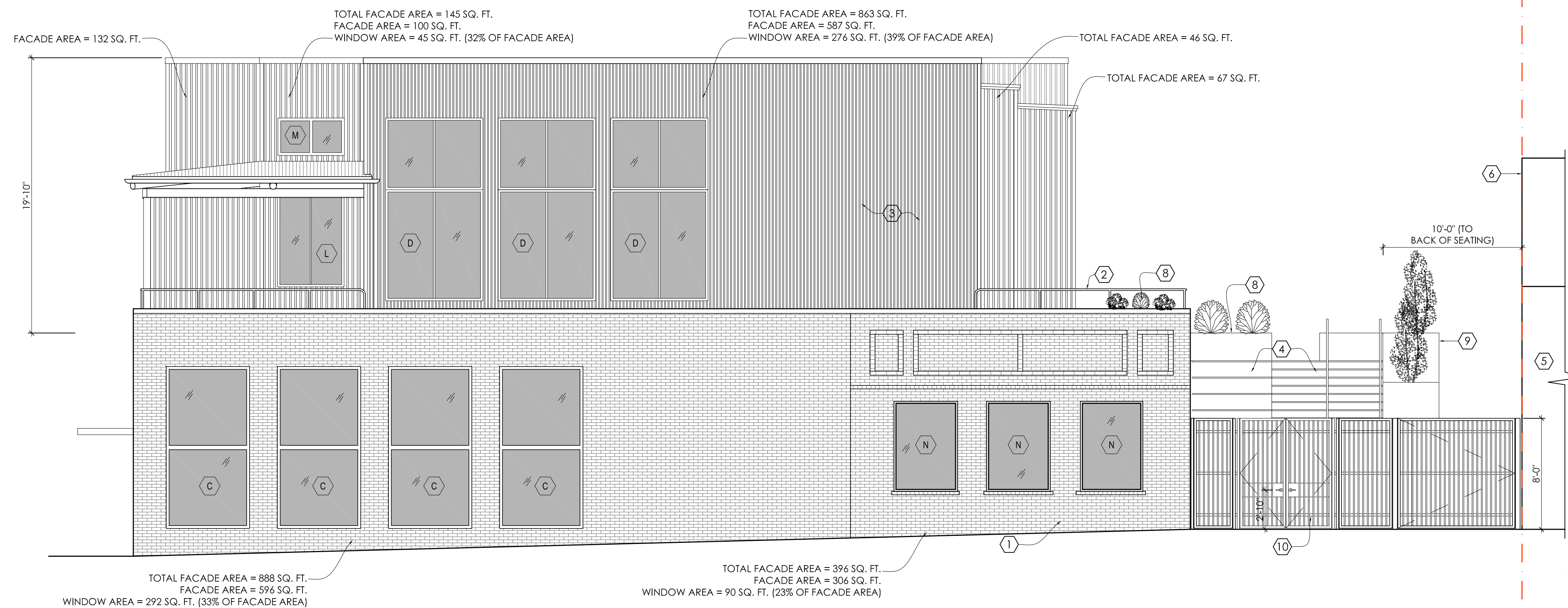


2 NORTH ELEVATION
1/4" = 1'-0"

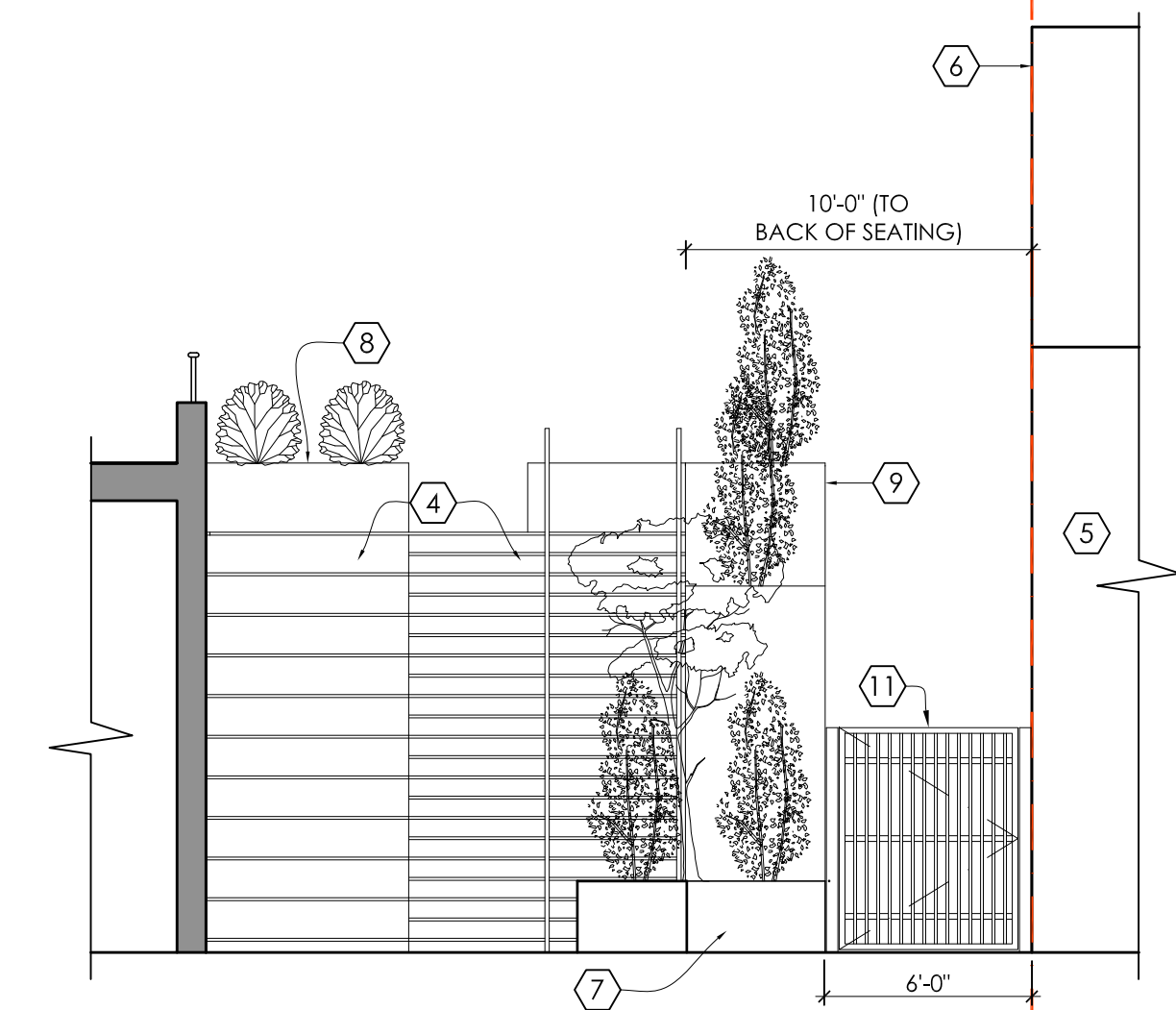
EXTERIOR ELEVATIONS

Design Development
April 13, 2023
Thurman Food Hall
2774-2788 NW Thurman St.
Portland, OR

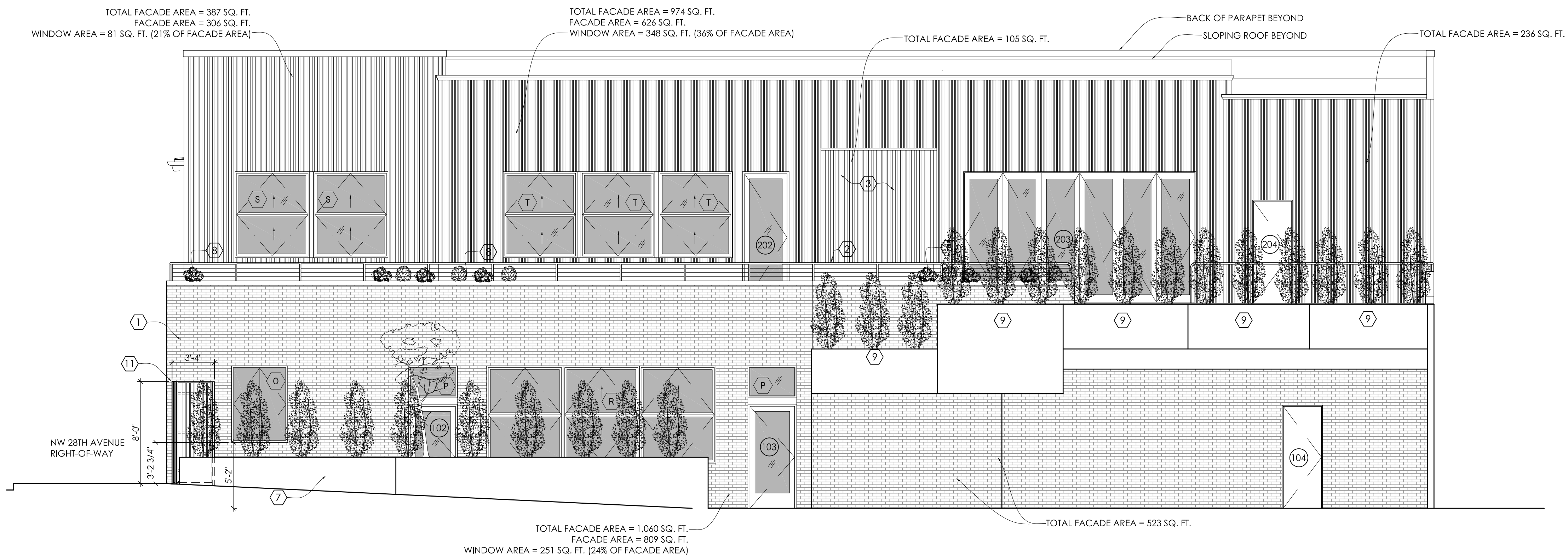
A3.1



1 WEST ELEVATION (AT R.O.W.)
3/16" = 1'-0"



3 WEST ELEVATION (WITHIN COURTYARD)
3/16" = 1'-0"



2 SOUTH ELEVATION
3/16" = 1'-0"

KEY NOTES

- 1 EXISTING MASONRY WALL
- 2 BALCONY GUARDRAIL
- 3 NEW SECOND FLOOR WALLS BEYOND
- 4 NEW STAIRS AND SEATING TO SECOND FLOOR BALCONY AREA ABOVE
- 5 EXISTING TROLLEY CAR LOFTS BUILDING, ADJACENT TO SOUTH SIDE OF SITE, SEE EXHIBIT 4
- 6 SOUTH PROPERTY LINE
- 7 NEW LANDSCAPE PLANTER, $\frac{3}{8}$ " METAL PLATE ($\frac{3}{8}$ " = PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO INCLUDE:
 - EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 6' HIGH
 - (1) SMALL DECIDUOUS OR EVERGREEN TREE
 - GROUND COVER TO FULLY COVER PLANTER AREA(All plants shall comply with the requirements the Suggested plant list for required Landscaping manual)
- 8 SECOND FLOOR LANDSCAPE PLANTER: ALL LANDSCAPE PLANTERS AT SECOND FLOOR BALCONIES/ ROOF TOP DECKS TO BE $\frac{3}{8}$ " METAL PLATE (PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO INCLUDE EVERGREEN SHRUBS AT 2'-6" O.C. TO FORM A SCREEN 3' HIGH
- 9 SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER ROOF DECK AND OUTDOOR STAIRS: (5) 9'-8" x 4'-0" PLANTERS TO BE $\frac{3}{8}$ " METAL PLATE (PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO BE EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH
- 10 STEEL FENCE WITH (2) PEDESTRIAN GATES AND (1) LOADING GATE, LOCKABLE PEDESTRIAN GATE W/ EXTERIOR GRADE LATCH AND HARDWARE (GATE TO REMAIN UNLOCKED DURING BUSINESS HOURS, PANIC EXIT HARDWARE ON EGRESS SIDE OF GATE, TYP.
- 11 HINGED STEEL GATE / SCREEN AT WEST SIDE OF ELECTRIC METERS AND TRASH AREA

EXTERIOR ELEVATIONS

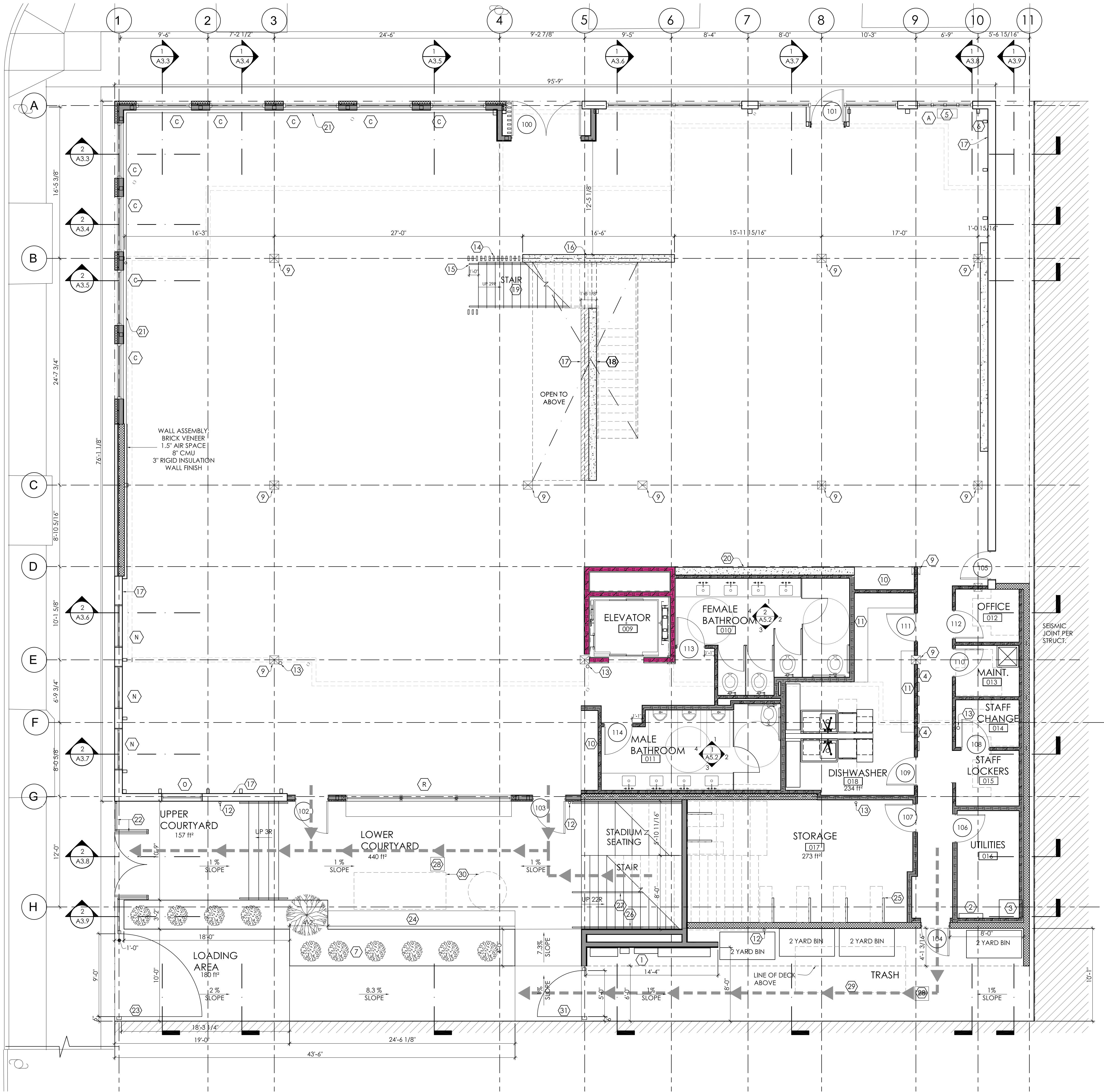
Design Development
April 13, 2023
Thurman Food Hall
2774-2788 NW Thurman St.
Portland, OR

A3.2

INTEGRATE
ARCHITECTURE & PLANNING

www.integratearch.com
© Integrate Architecture & Planning, p.c.

Exh. H.8
LU 22-159396 AD



MAIN FLOOR PLAN KEY NOTES

- ELECTRICAL METERS, SEE ELECTRIC PLANS
- ELECTRICAL MAIN DISTRIBUTION PANEL, SEE ELECTRIC PLANS
- ELECTRICAL TRANSFORMER - SEE ELECTRIC PLANS
- VENDOR ELECTRICAL PANELS
- DOMESTIC WATER BACK FLOW DEVICE
- FIRE SPRINKLER BACK FLOW DEVICE
- LANDSCAPE PLANTER, 1/2" METAL PLATE, POWDER COATED, ALL SIDES. PLANTS TO INCLUDE:
 - EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 6' HIGH
 - (1) SMALL DECIDUOUS TREE
 - GROUND COVER TO FULLY COVER PLANTER AREA
- HSS VERTICAL SUPPORT, SEE STRUCTURAL
- GLU-LAM COLUMN, SEE STRUCTURAL
- BUSSING STATION
- DISH STORAGE SHELVING, PROVIDE BLOCKING IN WALLS
- DOWNSPOUT LOCATION
- ROOF DRAIN PIPE FROM GUTTER AT SECOND FLOOR ROOF ABOVE
- VERTICAL WOOD SCREEN AT NORTH SIDE OF INTERIOR STAIR
- HANDRAIL AT FIRST STAIR RISER....
- NEW CONCRETE SHEAR WALL ON GRID LINE B - SEE STRUCTURAL
- EXISTING BRICK MASONRY WALL TO REMAIN AS ARCHITECTURAL FEATURE, SEE STRUCTURAL FOR STRENGTHENING REQUIREMENTS
- NEW CONCRETE SHEAR WALL AT EXISTING INTERNAL MASONRY WALL TO REMAIN, SEE STRUCTURAL
- OPEN RISER, HEAVY TIMBER STAIR TREADS....
- NEW CONCRETE SHEAR WALL, SEE STRUCTURAL
- FURR OUT INTERIOR WALL, 2x4 W/ 5/8" GYP, TO 18" ABOVE SLAB
- 8'-0" HIGH STEEL FENCE AND GATE AT WEST SIDE OF UPPER COURTYARD ALONG 28TH AVENUE R.O.W., SEE EXTERIOR ELEVATIONS, GATE TO BE EQUIPPED WITH PANIC HARDWARE AT EGRESS SIDE/ COURTYARD SIDE
- HINGED STEEL GATE AT WEST SIDE OF LOADING AREA, SEE EXTERIOR ELEVATIONS
- CONTINUOUS WOOD SEATING BENCH
- LONG TERM BIKE PARKING RACK, (6) TOTAL, TO BE MOUNTED TO CMU WALL IN BIKE STORAGE
- CONTINUOUS METAL HANDRAIL AT SOUTH SIDE OF STAIR
- CONTINUOUS METAL HANDRAIL AT CENTER OF STAIR
- 18" x 18" CATCH BASIN - SEE CIVIL PLANS
- GREASE INTERCEPTOR BELOW GRADE - SEE CIVIL PLANS
- STORM WATER DETENTION TANK (BELOW GRADE) AND FLOW CONTROL MANHOLE - SEE CIVIL PLANS
- HINGED STEEL GATE / SCREEN AT WEST SIDE OF ELECTRIC METERS AND TRASH AREA (AT GRID 5)

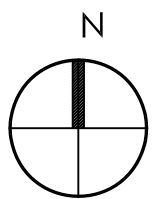
FLOOR PLAN GENERAL NOTES

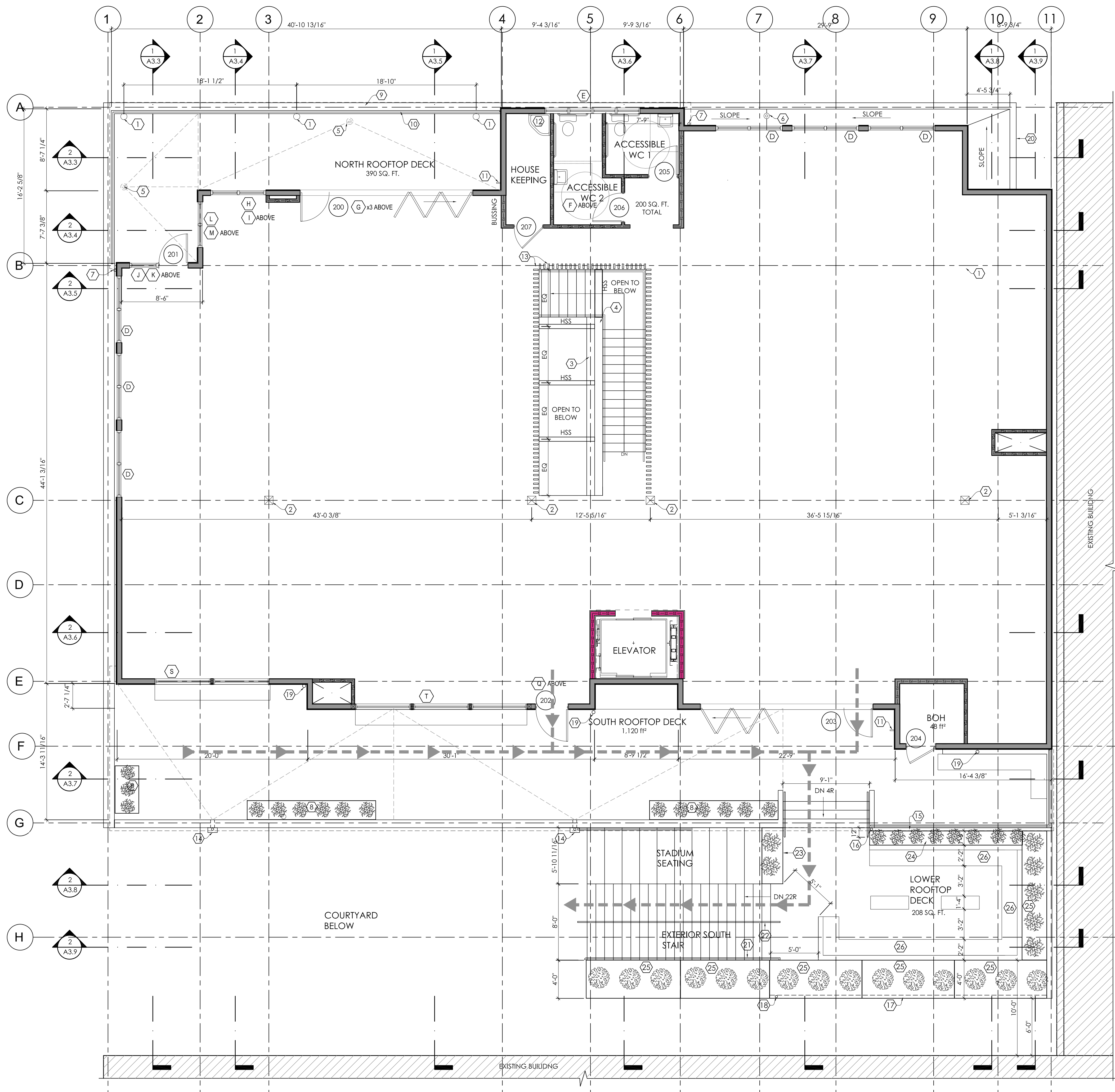
- All exterior concrete walls to remain
- Contractor to verify all conditions and dimensions before and during construction. Notify architect of any discrepancies prior to and during construction.
- All work to be performed in strict compliance with local, state, & federal codes & ordinances.
- All construction is to comply with the 2019 Oregon Energy Code
- Do not scale drawings.
- All dimensions are to face of framing unless otherwise noted.
- Provide blocking & fire stopping to meet all applicable codes.
- Seal all construction joints, plumbing and electrical penetrations to ensure maximum air tightness and insulation.
- Coordinate with architect for HVAC equipment, duct, and vent locations.
- Provide smoke and carbon monoxide detectors as required by code.
- Mechanical, Plumbing, Electrical and Communications systems are Design/Build, Design/Build contractors to submit drawings to building department for all required permits and to Architect for review.
- Contractor to coordinate all hardware with owner requirements, and shall match owner requirements.
- All mounting heights shall comply with all local and state ADA, and building code's restrictions and requirements.
- See 2/A-- for typical interior partition assemblies and improvements to existing horizontal assemblies.
- Paint to be washable

DOOR AND FRAME SCHEDULE

DOOR #	DOOR						FRAME		FIRE RATING	HARDWARE	
	SIZE			TYPE	MATERIAL	FINISH				MATERIAL	FINISH
WD	HGT	THK									
100	PR 3'-9"	8'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior
101	3'-6"	8'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior
102	3'-6"	7'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior
103	3'-6"	7'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior
104	3'-0"	7'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior
105	3'-0"	7'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior
106	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior
107	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior
108	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior
109	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior
110	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior
111	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior
112	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior
113	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	
114	3'-0"	7'-0"	1 3/8"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior

1 FIRST FLOOR PLAN
3/16" = 1'-0"





5,376 GROSS SQ. FT. BUILDING
(DOES NOT INCLUDE ELEVATOR
AND STAIR OPENING)

2,226 GROSS SQ. FT. BALCONY AREA

NET INDOOR SEATING AREA = 3,233 SQ. FT. (62%)
TOTAL VENDOR AREA = 1,413 SQ. FT. (26.6%)
BOH + BATHROOMS = 416 SQ. FT. (7.8%)

(note, remaining unaccounted
building area is related to
exterior walls)

SECOND FLOOR PLAN KEY NOTES

- 6" STD PIPE COLUMN, PAINTED, SEE STRUCTURAL
- GLU-LAM POST - SEE STRUCTURAL
- TOP OF EXISTING BRICK WALL TO REMAIN, SEE STRUCTURAL
- TOP OF NEW CONCRETE SHEAR WALL, SEE STRUCTURAL
- COVERED NORTH BALCONY FLOOR DRAIN, SEE PLUMBING PLANS
- ROOF DRAIN, SEE PLUMBING PLANS
- DOWNSPOUT FROM NORTH BALCONY ROOF, SEE PLUMBING PLANS
- 8" STEEL PLATE PLANTER, POWDER COATED
- PARAPET, SEE EXTERIOR ELEVATIONS
- GUARDRAIL AT TOP OF PARAPET, TOP OF = 42" ABOVE BALCONY FLOOR
- HOSE BIB, SEE PLUMBING PLANS
- MOP SINK
- VERTICAL WOOD SCREEN:
- SCUPPER & DOWNSPOUT AT SOUTH BALCONY / SOUTH FACADE
- CONTINUOUS 19'-2" LONG BOX GUTTER AT EAST END OF SOUTH BALCONY
- DOWNSPOUT AT WEST END OF GUTTER (PENETRATES LOWER ROOFTOP DECK FLOOR / STORAGE ROOM CEILING)
- CONTINUOUS 29'-2" LONG BOX GUTTER AT SOUTH SIDE OF LOWER ROOF TOP DECK (BELOW PLANTERS, SEE SECTION...)
- DOWNSPOUT AT WEST END OF GUTTER AT LOWER ROOFTOP DECK
- DOWNSPOUT LOCATION FROM GUTTER AT SECOND FLOOR ROOF, (DOWNSPOUT TO PENETRATE BALCONY FLOOR / 1ST FLOOR CEILING ASSEMBLY) . (3 TOTAL)
- TOP OF EXISTING MASONRY PARAPET TO REMAIN, HEIGHT VARIES FROM 12" TO 16" ABOVE ROOFING
- CONTINUOUS METAL HANDRAIL AT SOUTH SIDE OF STAIR
- CONTINUOUS METAL HANDRAIL AT CENTER OF STAIR
- REQUIRED PLANTER: 2'-6" x 5'-10" LANDSCAPE METAL PLANTER WITH EVERGREEN SHRUBS AT 2'-6" x 5'-10" O.C. TO FORM A SCREEN 3' HIGH
- REQUIRED PLANTER: 16'-0" x 1'-6" LANDSCAPE METAL PLANTER WITH EVERGREEN SHRUBS AT 2'-6" O.C. TO FORM A SCREEN 3' HIGH
- REQUIRED PLANTER: 13'-6" x 2'-6" LANDSCAPE METAL PLANTER WITH EVERGREEN SHRUBS AT 2'-6" O.C. TO FORM A SCREEN 3' HIGH
- REQUIRED PLANTERS: 9'-8" x 4'-0" LANDSCAPE METAL PLANTERS WITH EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH, FIVE TOTAL
- CONTINUOUS BENCH AT LOWER ROOFTOP DEK

FLOOR PLAN GENERAL NOTES

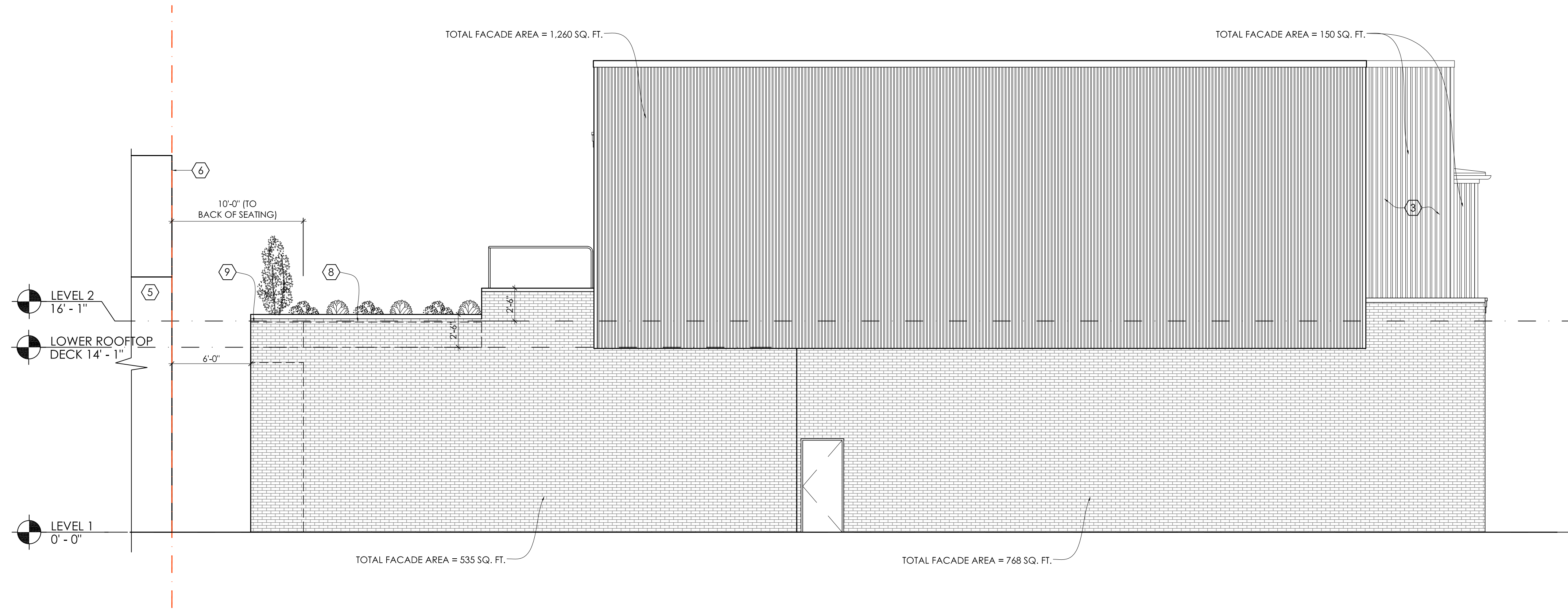
- All exterior concrete walls to remain
- Contractor to verify all conditions and dimensions before and during construction. Notify architect of any discrepancies prior to and during construction.
- All work to be performed in strict compliance with local, state, & federal codes & ordinances.
- All construction is to comply with the 2019 Oregon Energy Code
- Do not scale drawings.
- All dimensions are to face of framing unless otherwise noted.
- Provide blocking & fire stopping to meet all applicable codes.
- Seal all construction joints, plumbing and electrical penetrations to ensure maximum air tightness and insulation.
- Coordinate with architect for HVAC equipment, duct, and vent locations.
- Provide smoke and carbon monoxide detectors as required by code.
- Mechanical, Plumbing, Electrical and Communications systems are Design/Build, Design/Build contractors to submit drawings to building department for all required permits and to Architect for review.
- Contractor to coordinate all hardware with owner requirements, and shall match owner requirements.
- All mounting heights shall comply with all local and state ADA, and building code's restrictions and requirements.
- See 2/A--- for typical interior partition assemblies and improvements to existing horizontal assemblies.
- Paint to be washable

SECOND FLOOR			DOOR AND FRAME SCHEDULE									
DOOR #	DOOR						FRAME		FIRE RATING	HARDWARE		NOTES
	WD	HGT	THK	TYPE	MATERIAL	FINISH	MATERIAL	FINISH		SET NO		
201	3'-0"	7'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
202	3'-4"	10'-0"	1 3/4"	FG	AL/C	FF	AL/C	FF	--	0.000	Exterior	
204	3'-0"	7'-0"	1 3/4"	F	MTL	FF	MTL	FF	--	0.000	Exterior, insulated	
205	3'-0"	6'-8"	1 3/8"	F	SC	PT	WD	PT	--	0.000	Private bathroom	
206	3'-0"	6'-8"	1 3/8"	F	WD	PT	WD	PT	--	0.000	Private bathroom	
207	3'-0"	6'-8"	1 3/8"	F	WD	PT	HM	PT	--	0.000	--	
200	18'-2" ?	10'-2" ?	1 3/4"	FG	AL/C	FF	AL/C	FF			BI-FOLD EXTERIOR	
203	18'-2" ?	10'-2" ?	1 3/4"	FG	AL/C	FF	AL/C	FF			BI-FOLD EXTERIOR	

2ND FLOOR PLAN

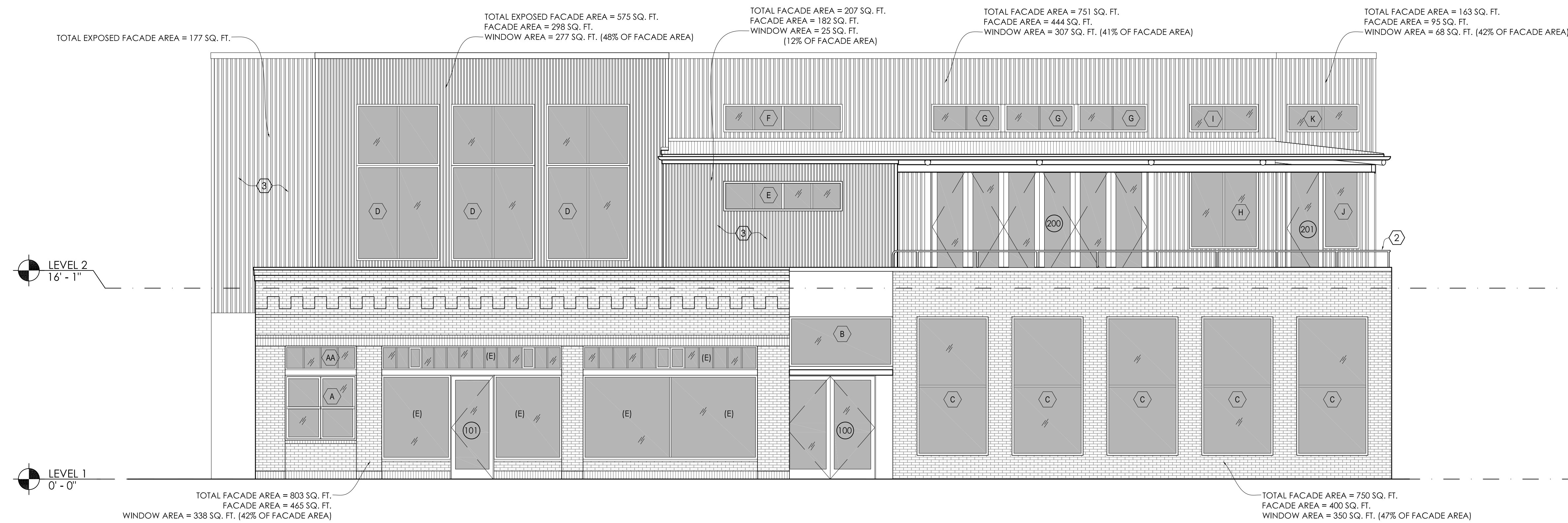
Design Development
April 18, 2023
Thurman Food Hall
2774-2788 NW Thurman St.
Portland, OR

A2.2



1 EAST ELEVATION
1/4" = 1'-0"

- KEY NOTES**
- 1 EXISTING MASONRY WALL
 - 2 BALCONY GUARDRAIL
 - 3 NEW SECOND FLOOR WALLS BEYOND
 - 4 NEW STAIRS AND SEATING TO SECOND FLOOR BALCONY AREA ABOVE
 - 5 EXISTING TROLLEY CAR LOFTS BUILDING, ADJACENT TO SOUTH SIDE OF SITE. SEE EXHIBIT 4
 - 6 SOUTH PROPERTY LINE
 - 7 NEW LANDSCAPE PLANTER, $\frac{3}{4}$ " METAL PLATE ($\frac{1}{2}$ " = PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO INCLUDE:
 - EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 6' HIGH
 - (1) SMALL DECIDUOUS OR EVERGREEN TREE
 - GROUND COVER TO FULLY COVER PLANTER AREA
 (All plants shall comply with the requirements the suggested plant lists for required Landscaping manual)
 - 8 SECOND FLOOR LANDSCAPE PLANTER: ALL LANDSCAPE PLANTERS AT SECOND FLOOR BALCONIES/ ROOF TOP DECKS TO BE $\frac{3}{4}$ " METAL PLATE (PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO INCLUDE EVERGREEN SHRUBS AT 2'-6" O.C. TO FORM A SCREEN 3' HIGH
 - 9 SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER ROOF DECK AND OUTDOOR STAIRS: (5) 9'-8" x 4'-0" PLANTERS TO BE $\frac{3}{4}$ " METAL PLATE (PLANTER WALL THICKNESS), POWDER COATED, ALL SIDES. PLANTS TO BE EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH
 - 10 STEEL FENCE WITH (2) PEDESTRIAN GATES AND (1) LOADING GATE. LOCKABLE PEDESTRIAN GATE W/ EXTERIOR GRADE LATCH AND HARDWARE (GATE TO REMAIN UNLOCKED DURING BUSINESS HOURS. PANIC EXIT HARDWARE ON EGRESS SIDE OF GATE, TYP.
 - 11 HINGED STEEL GATE / SCREEN AT WEST SIDE OF ELECTRIC METERS AND TRASH AREA



2 NORTH ELEVATION
1/4" = 1'-0"

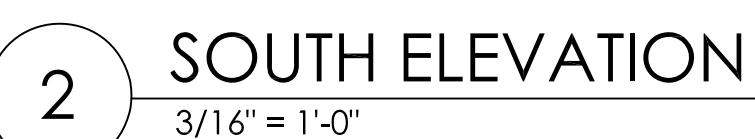
EXTERIOR
ELEVATIONS

Design Development
April 18, 2023
Thurman Food Hall
2774-2788 NW Thurman St.
Portland, OR

A3.1



- ① EXISTING MASONRY WALL
- ② BALCONY GUARDRAIL
- ③ NEW SECOND FLOOR WALLS BEYOND
- ④ NEW STAIRS AND SEATING TO SECOND FLOOR BALCONY AREA ABOVE
- ⑤ EXISTING TROLLEY CAR LOFTS BUILDING, ADJACENT TO SOUTH SIDE OF SITE. SEE EXHIBIT 4
- ⑥ SOUTH PROPERTY LINE
- ⑦ NEW LANDSCAPE PLANTER: $\frac{3}{4}$ " METAL PLATE ($\frac{3}{4}$ " = PLANTER WALL THICKNESS). POWDER COATED, ALL SIDES. PLANTS TO INCLUDE:
 - EVERGREEN SHRUBS AT 4'-0" TO FORM A SCREEN 4' HIGH
 - (1) SMALL DECIDUOUS OR EVERGREEN TREEGROUND COVER TO FULLY COVER PLANTER AREA
(All plants shall comply with the requirements the suggested plant lists for required Landscaping manual)
- ⑧ SECOND FLOOR LANDSCAPE PLANTER: ALL LANDSCAPE PLANTERS AT SECOND FLOOR BALCONIES/ ROOF TOP DECKS TO BE $\frac{3}{4}$ " METAL PLATE (PLANTER WALL THICKNESS). POWDER COATED, ALL SIDES. PLANTS TO INCLUDE EVERGREEN SHRUBS AT 2'-6" O.C. TO FORM A SCREEN 3' HIGH
- ⑨ SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER ROOF DECK AND OUTDOOR STAIRS: (5) 9'-8" x 4'-0" PLANTERS TO BE $\frac{3}{4}$ " METAL PLATE (PLANTER WALL THICKNESS). POWDER COATED, ALL SIDES. PLANTS TO BE EVERGREEN SHRUBS AT 3'-6" O.C. TO FORM A SCREEN 6' HIGH
- ⑩ STEEL FENCE WITH (2) PEDESTRIAN GATES AND (1) LOADING GATE. LOCKABLE PEDESTRIAN GATE W/ EXTERIOR GRADE LATCH AND HARDWARE (GATE TO REMAIN UNLOCKED DURING BUSINESS HOURS, PANIC EXIT HARDWARE ON EGRESS SIDE OF GATE, TYP.
- ⑪ HINGED STEEL GATE / SCREEN AT WEST SIDE OF ELECTRIC METERS AND TRASH AREA









City of Portland
Design Commission

Type II Land Use Review Adjustment Appeal

LU 22-159396 AD
2774-2788 NW THURMAN ST
April 20, 2023

Staff Presentation

- | | |
|---|---------|
| 1. Staff Presentation | 10 min |
| 2. Appellant 1 (Mary DeVries) | 10 min |
| 3. Appellant 2 (Thomas Cutler) | 10 min |
| 4. Supporters of the Appellants | 2-5 min |
| 5. Applicant (Principal Opponent) | 30 min |
| 6. Other Opponents | 2-5 min |
| 7. Appellant 1 Rebuttal (Mary DeVries) | 5 min |
| 8. Appellant 2 Rebuttal (Thomas Cutler) | 5 min |
| 9. Close Public Testimony | |
| 10. Commission Deliberation | |

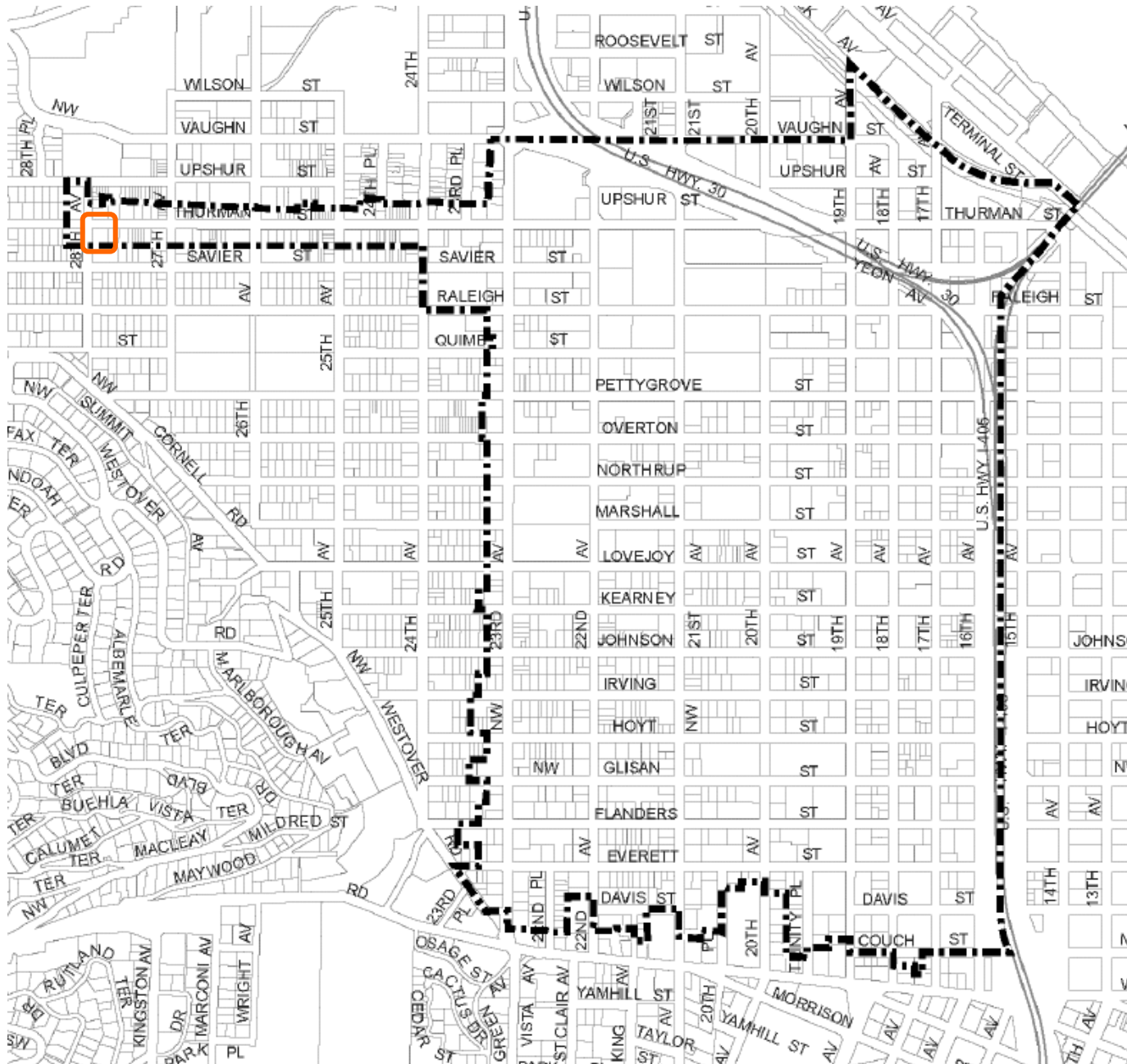
Presentation Order

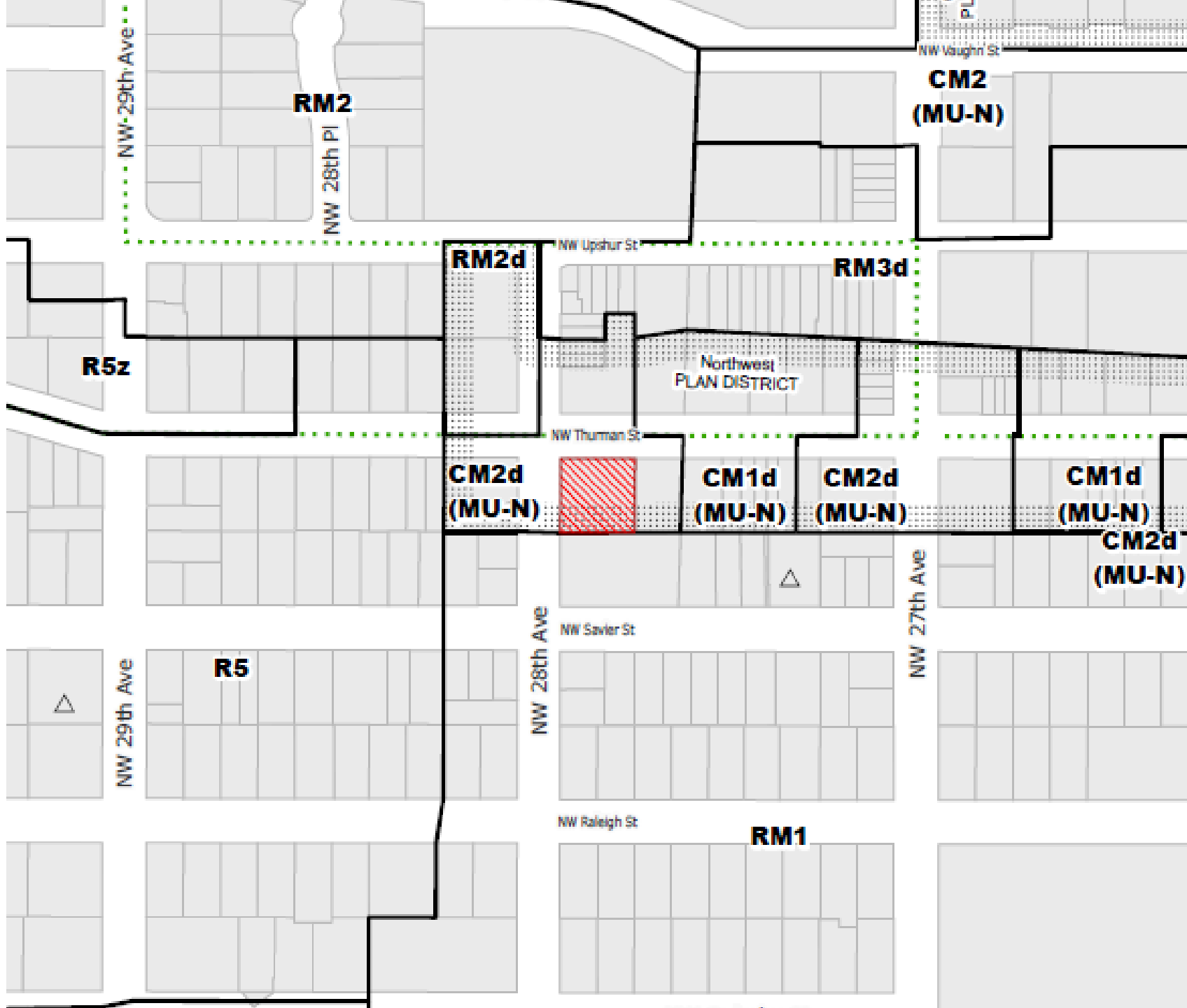
Planner Presentation

- Location
- Zoning
- Context
- Program Overview
- Adjustment Requests
- Adjustment Approval Criteria
- Revisions
- Questions

Location

Northwest Plan District





Zoning

Base Zone:

CM2, Commercial/Mixed Use 2

Overlay:

Design "d" overlay zone

Floor Area Ratio:

Max allowed: 2.5:1

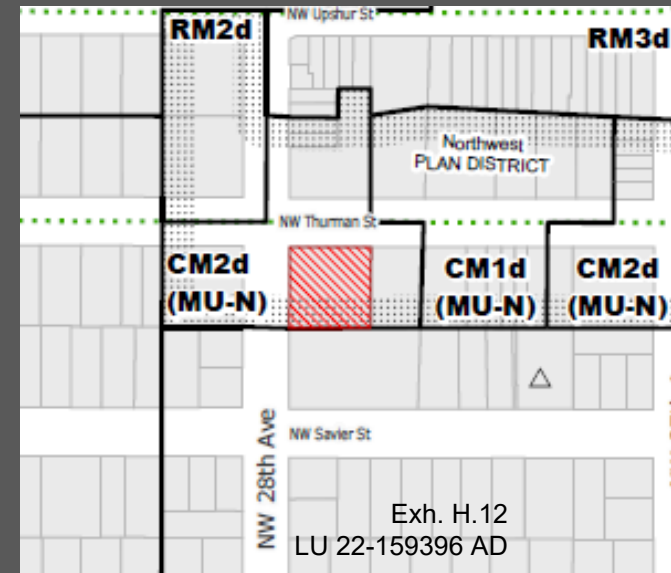
Proposed: 1.58:1

Height:

Max allowed: 45'

Proposed: 35'

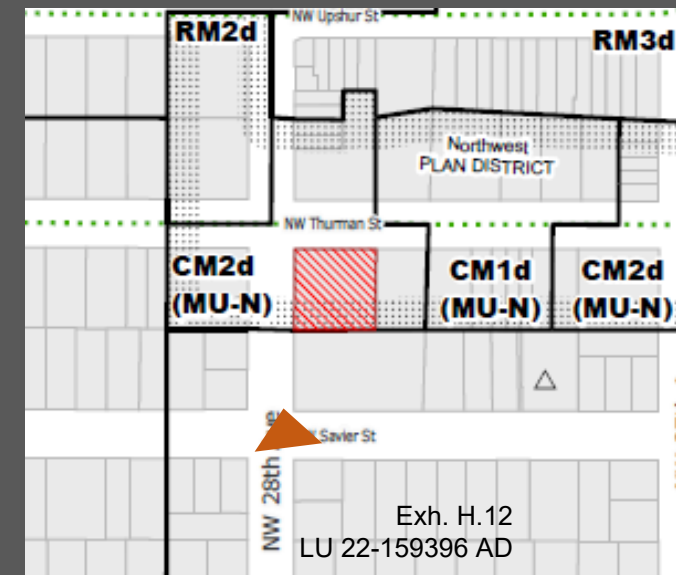
- SE Corner of NW Thurman and NW 28th Ave





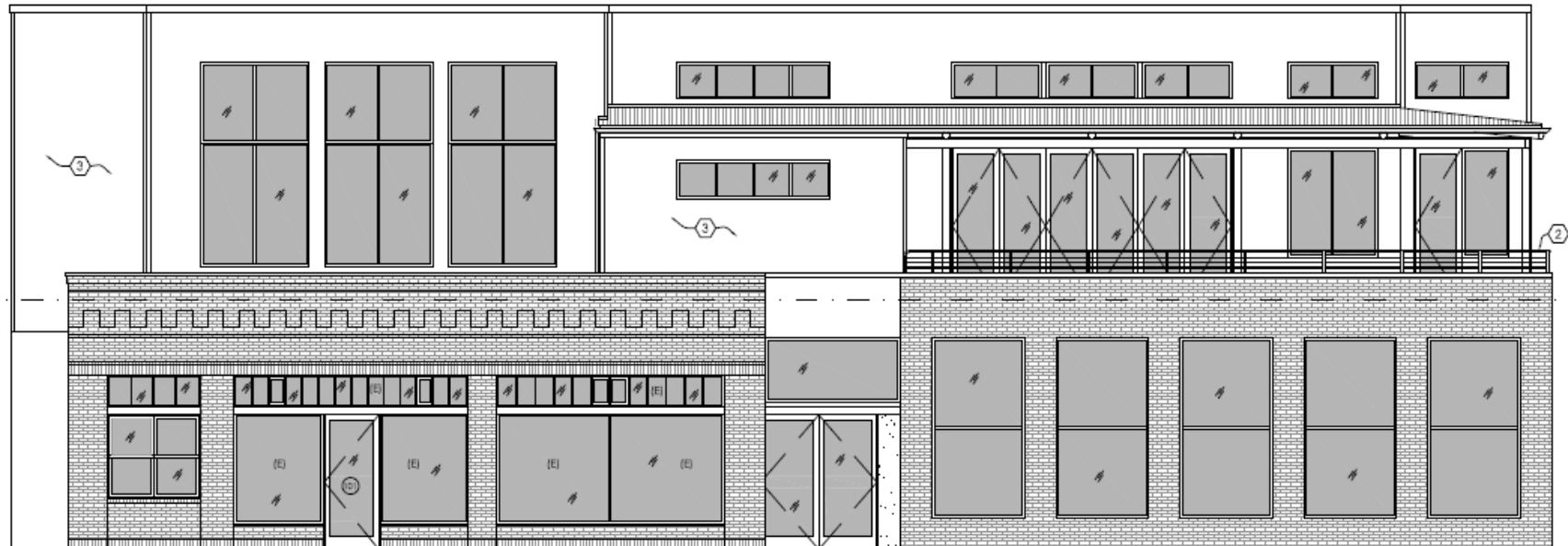
Context

- Single story commercial building including retail store and out-of-business tavern
- Development 1 block to the north primarily higher density multi-dwelling residential buildings ranging from 2-to-4-stories
- Primarily 1-3 story commercial/residential along NW Thurman to east





North Elevation Existing



Proposed

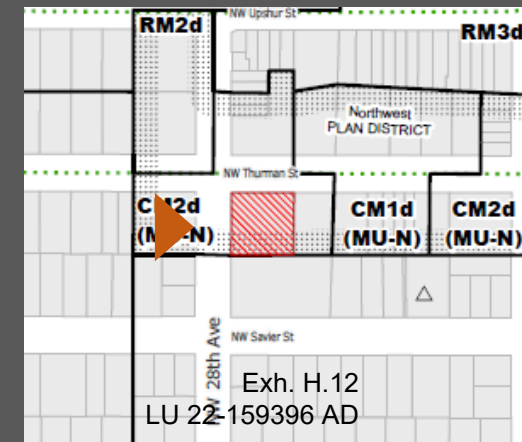
Program Overview

- Re-purpose existing tavern into a retail sales and service space (including restaurants) with 6-10 tenants
- Partial first story addition at south
- Partial second story addition
- Ground level patio
- Second story patios with stairway connection
- Changes to existing loading space

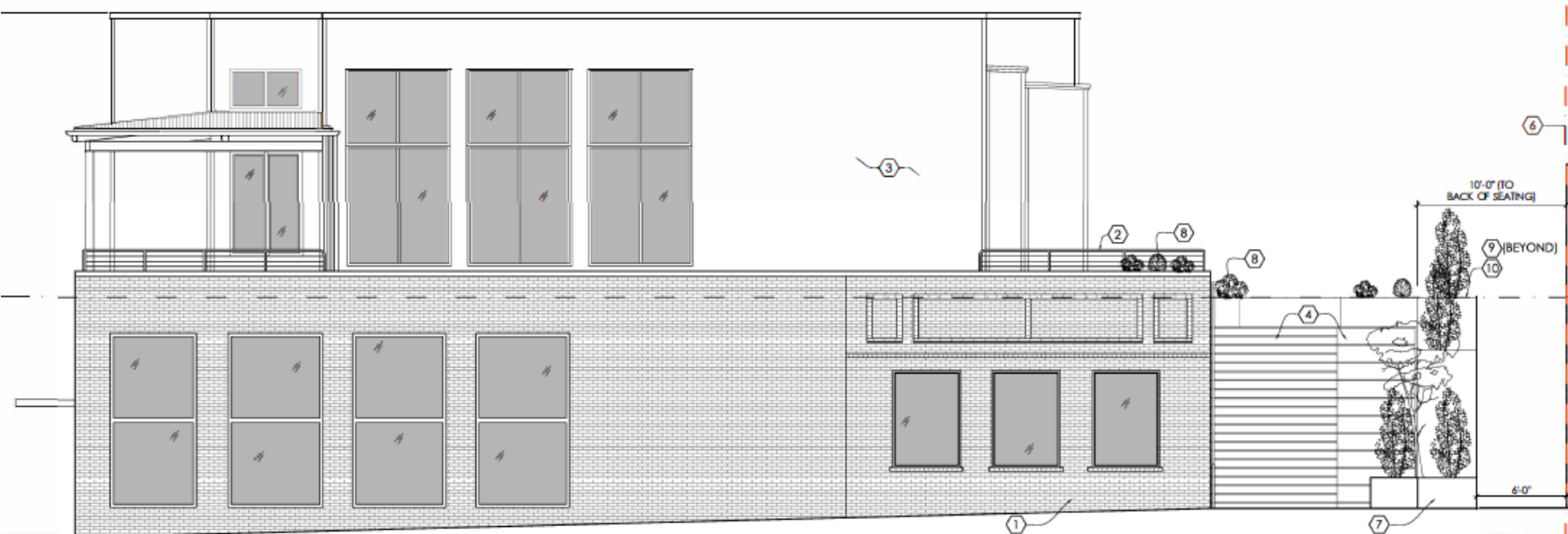
Note: Context only. No Adjustments requested at North elevation

Program Overview

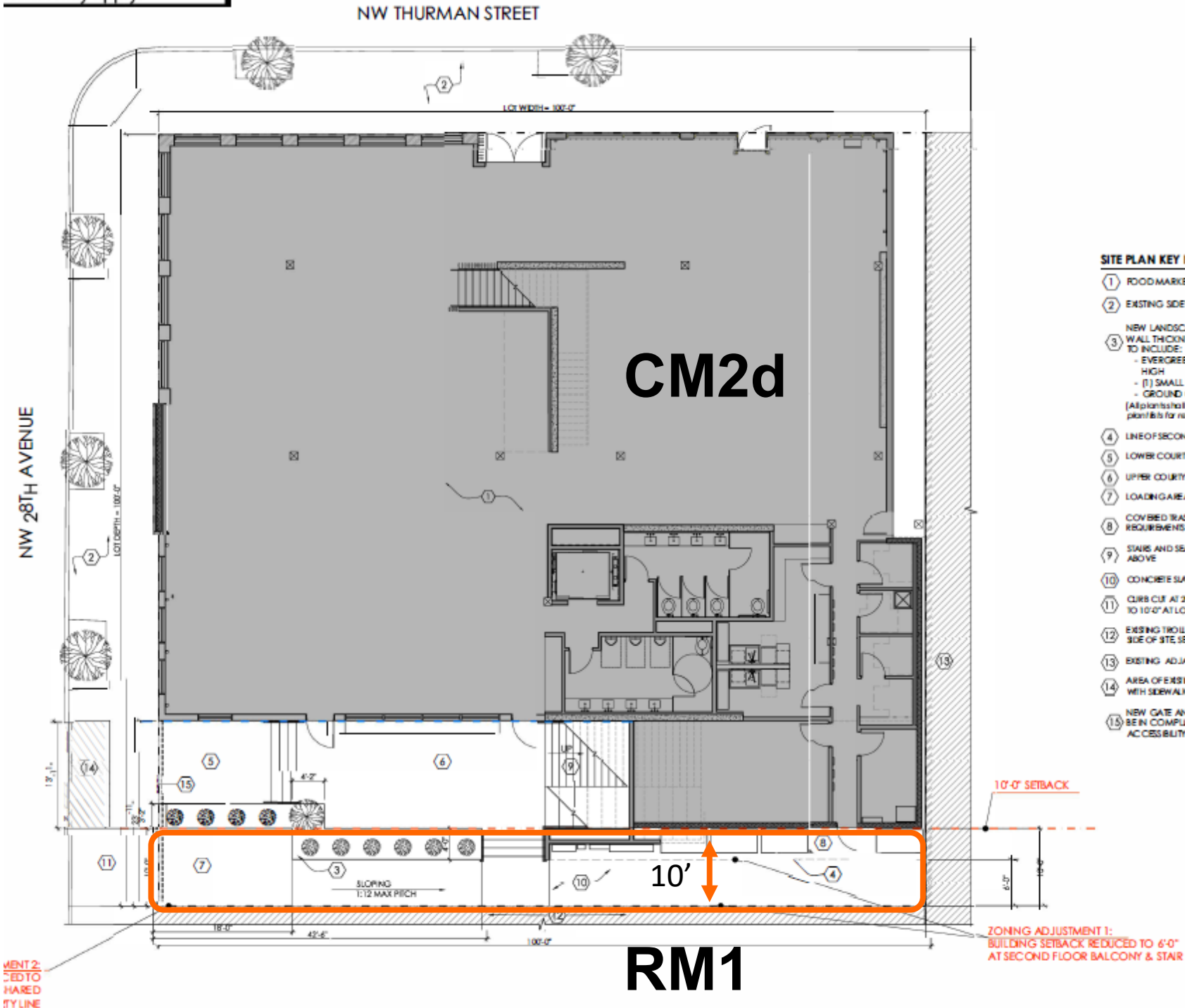
- Re-purpose existing tavern into a retail sales and service space (including restaurants) with 6-10 tenants
- Partial first story addition at south
- Partial second story addition
- Ground level patio
- Second story patios with stairway connection
- Changes to existing loading space



West Elevation Existing



Proposed



Adjustments

1. Adjustment 1

2. Adjustment 2

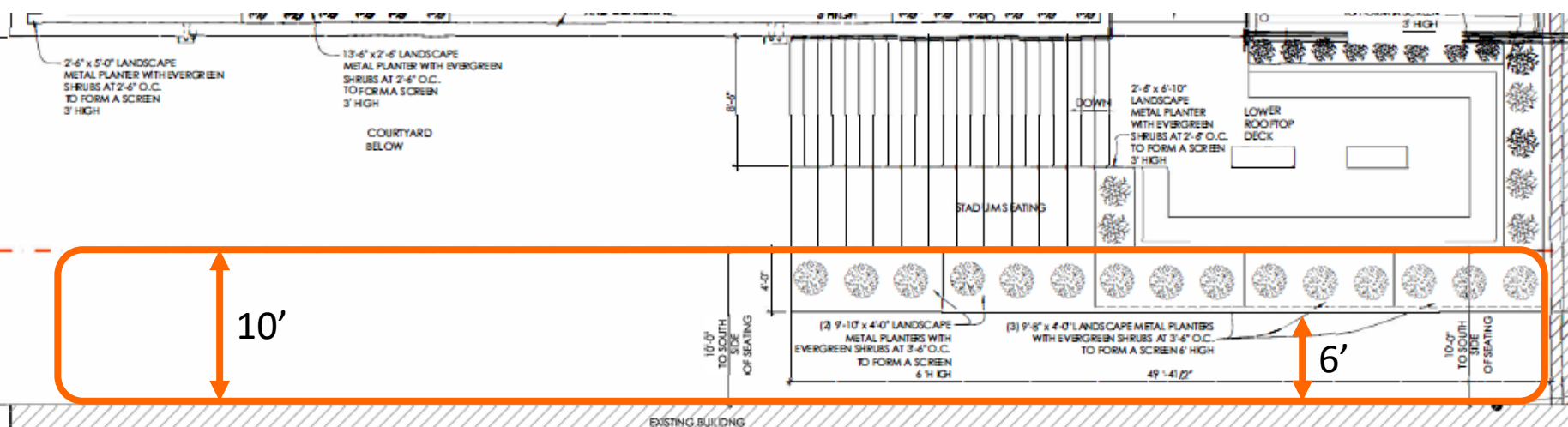
Reduce the residential-abutting (south) setback for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street

Adjustments

1. Adjustment 1

2. Adjustment 2

Reduce the residential-abutting (south) setback for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street

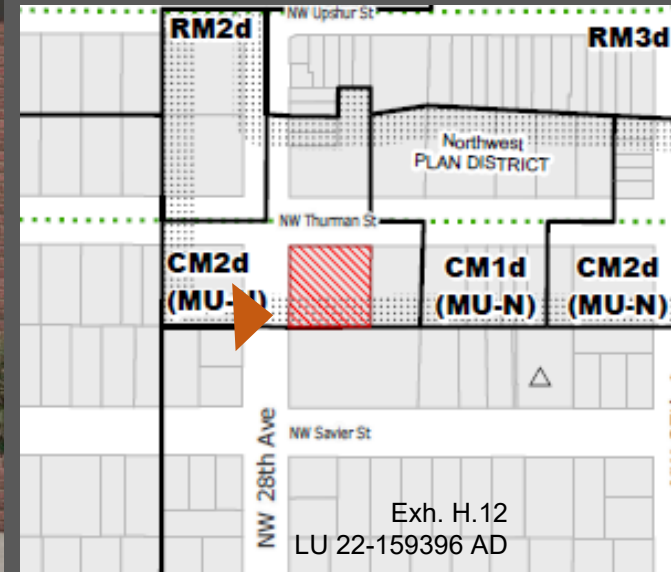


Adjustments

1. Adjustment 1

2. Adjustment 2

Reduce the minimum 10-foot south building setback (required for CM2 sites abutting RM1 sites) to 6 feet, and to waive the L3 landscaping buffer

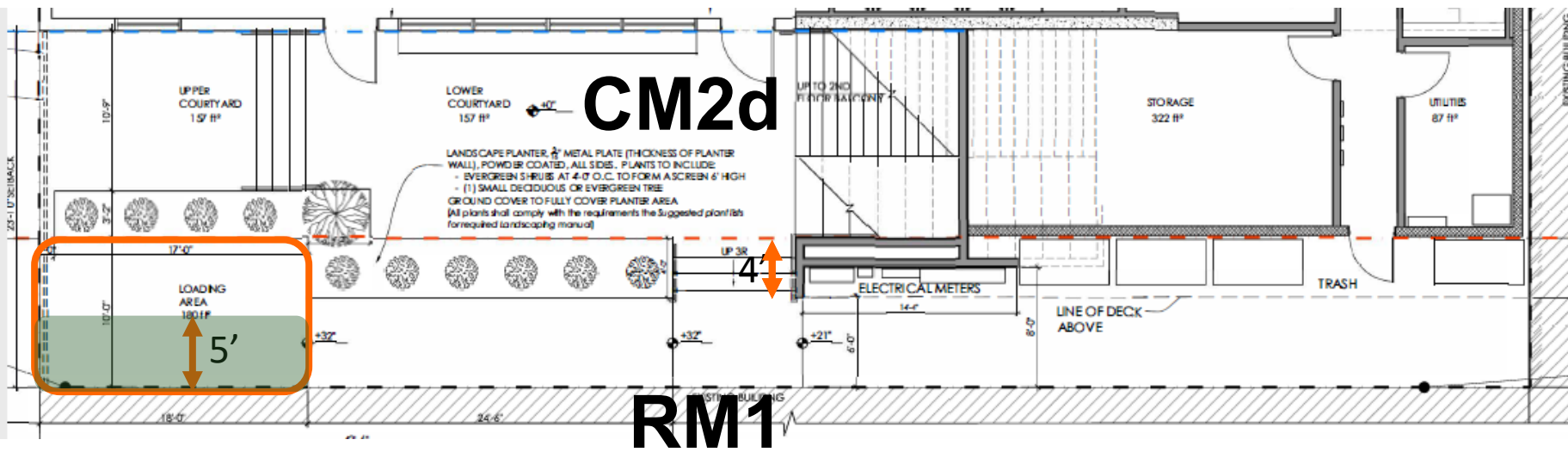


Adjustments

1. Adjustment 1

2. Adjustment 2

Reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street (NW 28th Avenue)



West Elevation (existing conditions)

Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

Adjustment Approval Criteria A. through F. of Section 33.805.040:

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
- 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
- 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
- D.City-designated scenic resources and historic resources are preserved; and
- E.Any impacts resulting from the adjustment are mitigated to the extent practical; and
- F.If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable (*not applicable*).

33.130.215 Setbacks

The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial/mixed use zones. The setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air, and the potential for privacy for adjacent residential zones . . .

The minimum building setbacks along local service streets adjacent to residential zones work together with requirements for step downs in building height to ensure that there is a transition in street frontage characteristics to lower scale residential zones. In these situations, the building setback regulations promote street frontages with landscaping and residential uses to provide a transition and a cohesive street environment with similar street frontage characteristics on both sides of the street, and limit exterior display and storage to minimize impacts to nearby residentially-zoned areas.

Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

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

Adjustment 1

Reduce the minimum 10-foot south building setback (required for CM2 sites abutting RM1 sites) to 6 feet, and to waive the L3 landscaping buffer

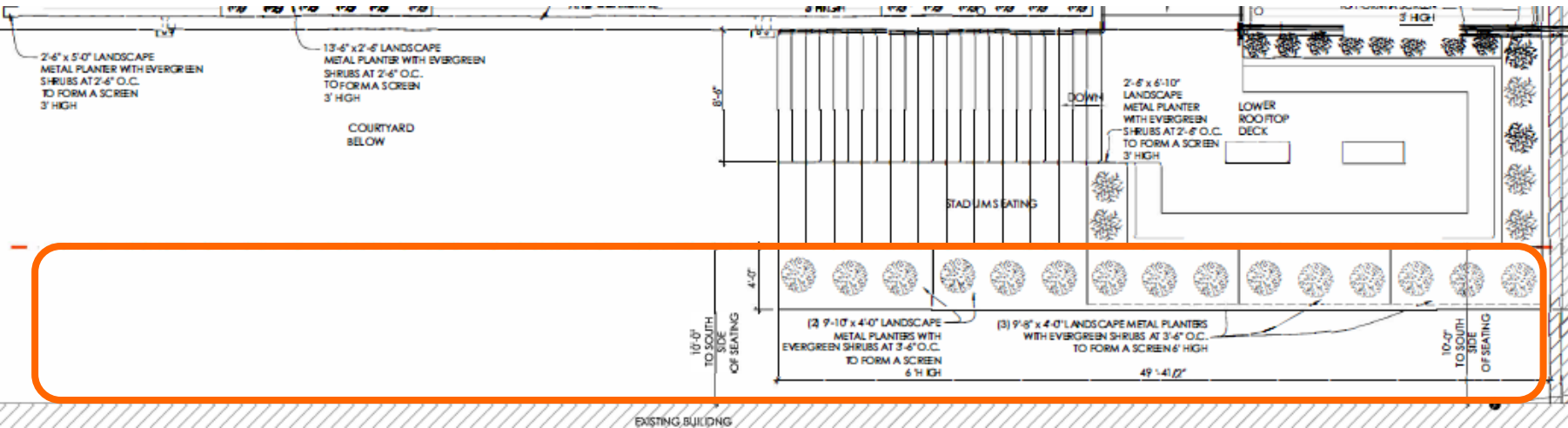
Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

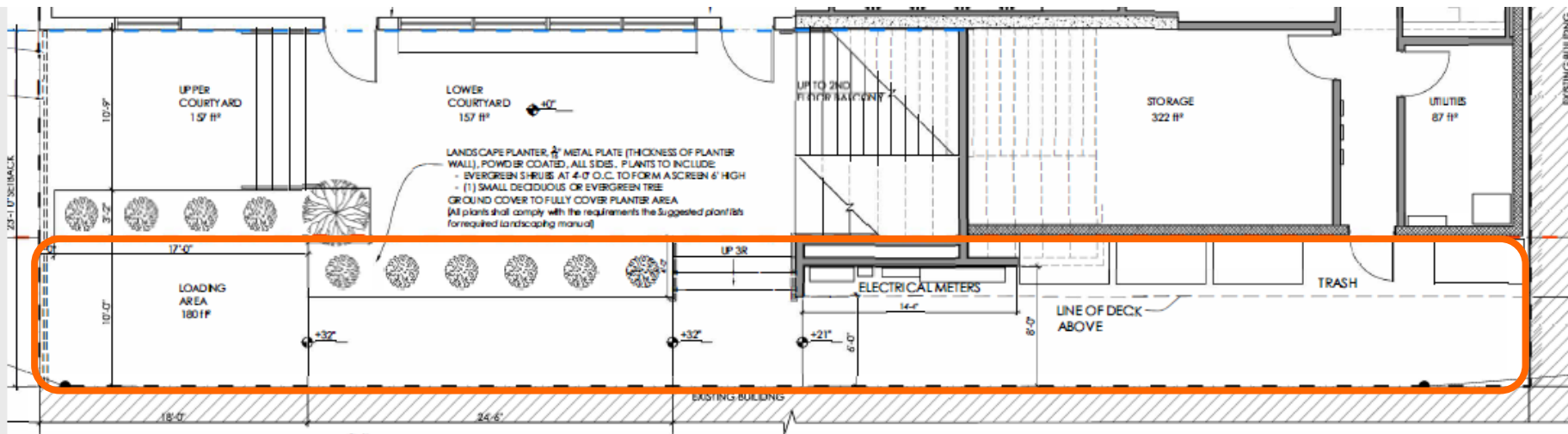
A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified

Adjustment 1

Reduce the minimum 10-foot south building setback (required for CM2 sites abutting RM1 sites) to 6 feet, and to waive the L3 landscaping buffer

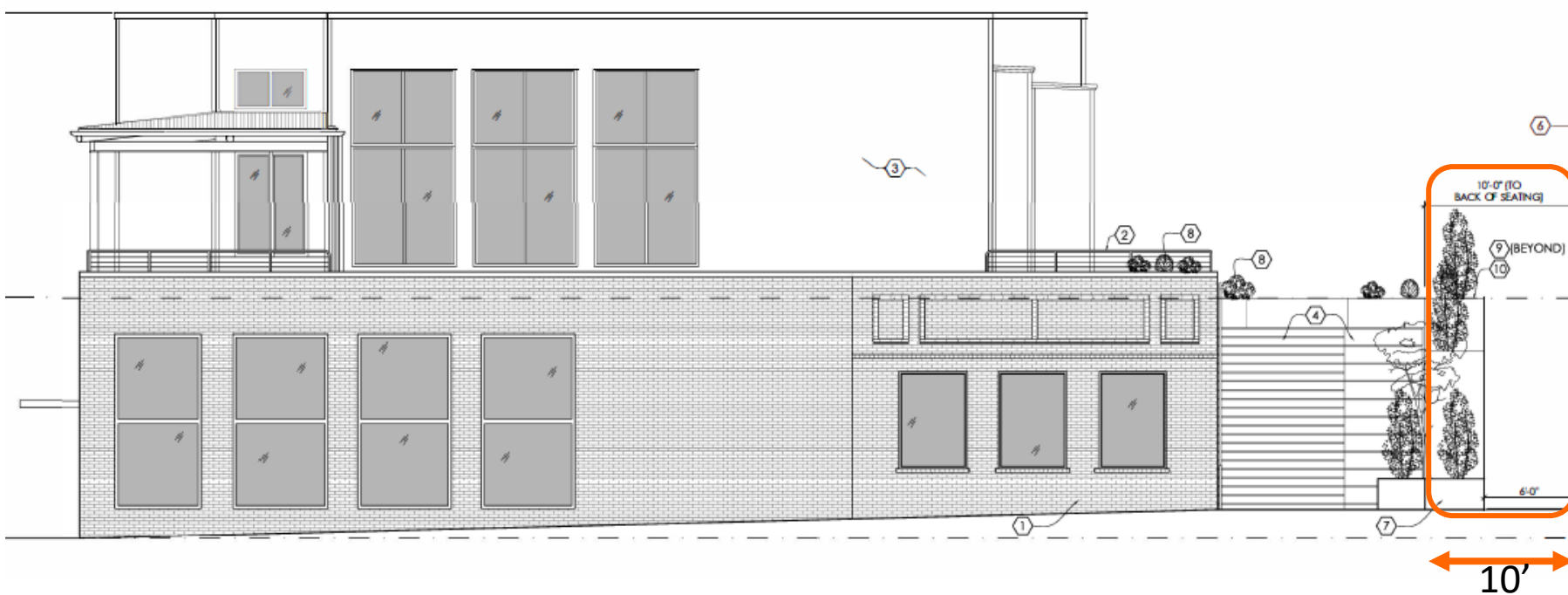


Second Level



Ground Level

West Elevation



Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

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

Adjustment 1

Reduce the minimum 10-foot south building setback (required for CM2 sites abutting RM1 sites) to 6 feet, and to waive the L3 landscaping buffer

West Elevation

10'-0" (TO BACK OF SEATING)

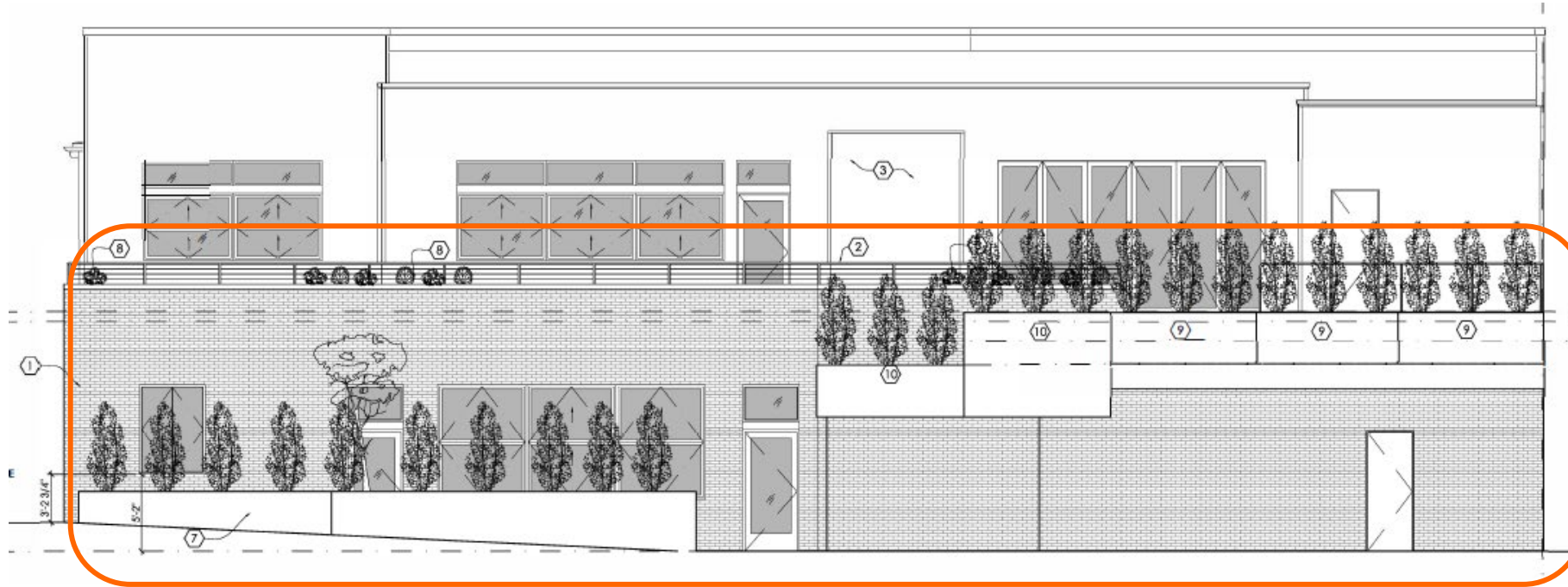
10'

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

Reduce the minimum 10-foot south building setback (required for CM2 sites abutting RM1 sites) to 6 feet, and to waive the L3 landscaping buffer

A photograph of a narrow alleyway between brick buildings. A yellow line is drawn diagonally across the brick wall on the right, indicating a structural feature or boundary. The alleyway is gated with a chain-link fence. A parking sign is visible on the left building.

South Elevation



Approval Criteria

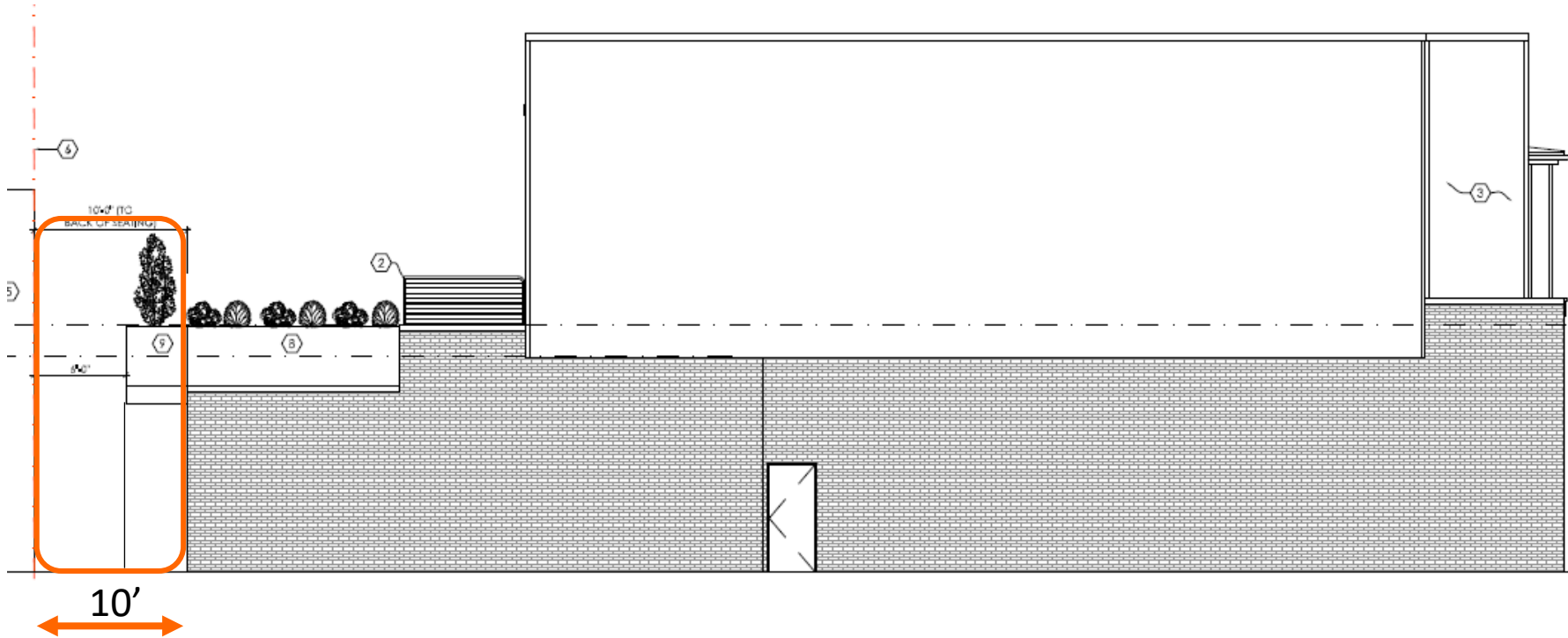
Adjustment Approval Criteria
PZC Section 33.805.040 A-F

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

Adjustment 1

Reduce the minimum 10-foot south building setback (required for CM2 sites abutting RM1 sites) to 6 feet, and to waive the L3 landscaping buffer

East Elevation



Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

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

Adjustment 1

Reduce the minimum 10-foot south building setback (required for CM2 sites abutting RM1 sites) to 6 feet, and to waive the L3 landscaping buffer

33.266.310 Loading Standards

A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way.

Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

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

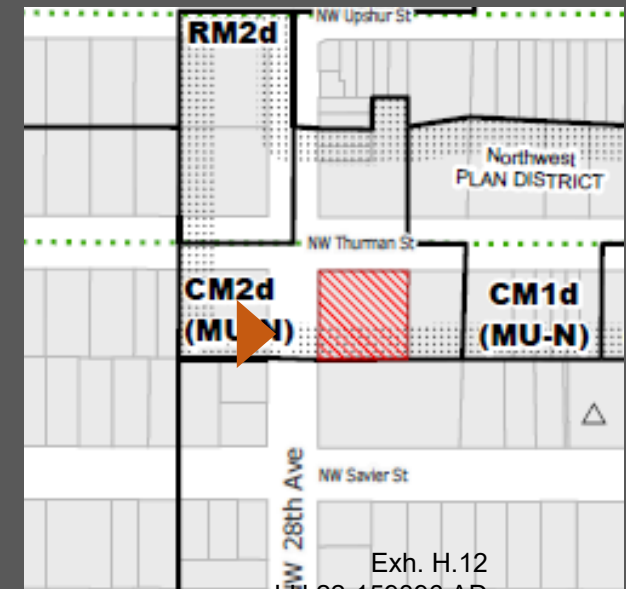
Adjustment 2

Reduce the residential-abutting setbacks for a loading space from 5 feet with perimeter landscaping to the L4 standard to 0 feet, to waive the perimeter landscape requirement, and to allow the northernmost 4 feet of the loading space to be located between the building and the street (NW 28th Avenue)

Adjustments

1. Adjustment 1

2. Adjustment 2



Exh. H.12
LU 22-159396 AD

Approval Criteria

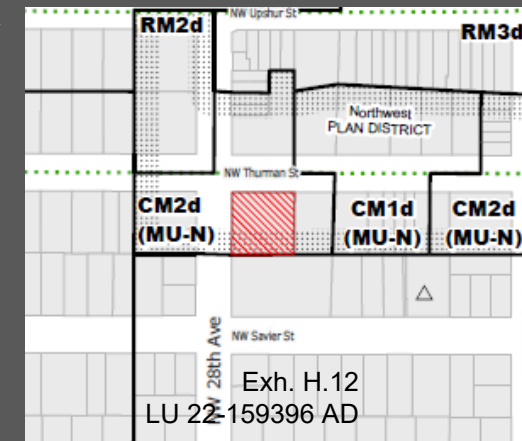
Adjustment Approval Criteria
PZC Section 33.805.040 A-F

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**

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 desired character of this site is determined by:

- the character statement of the CM2 zone;
- the purpose statement Design Overlay Zone and the;
- the purpose statement Northwest Plan District;
- the Portland Citywide Design Guidelines; and
- The Northwest District Plan.



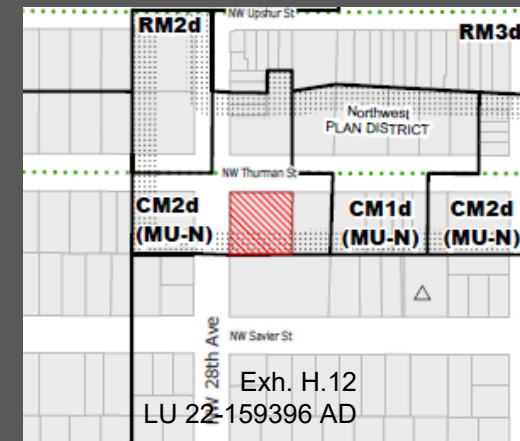
Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

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

33.130.030 CM2 Character Statement

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



Approval Criteria

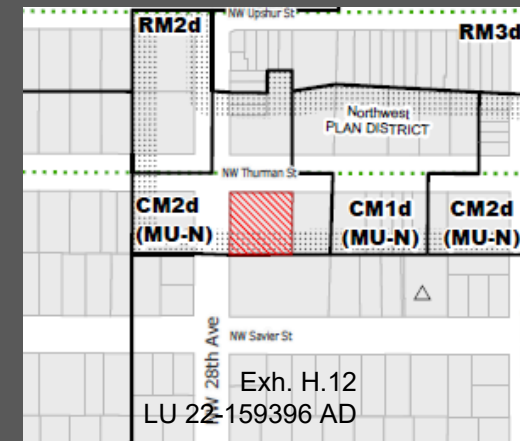
Adjustment Approval Criteria
PZC Section 33.805.040 A-F

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**

33.420.010 Design Overlay Zone

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- ***Build on context by enhancing*** the distinctive physical, natural, **historic** and cultural qualities of the location **while accommodating growth and change**;
- *Contribute to a **public realm that encourages social interaction** and fosters inclusivity in people's daily experience; and*
- *Promotes **quality and long-term resilience** in the face of changing demographics, climate and economy.*



33.562.010 Northwest Plan District

The Northwest plan district implements the Northwest District Plan, providing for an urban level of mixed-use development including commercial, office, housing, and employment. Objectives of the plan district include strengthening the area's role as a commercial and residential center. The regulations of this chapter:

- *Promote housing and mixed-use development;*
- *Address the area's parking scarcity while discouraging auto-oriented developments;*
- ***Enhance the pedestrian experience;***
- ***Encourage a mixed-use environment, with transit supportive levels of development and a concentration of commercial uses, along main streets and the streetcar alignment; and***
- *Minimize conflicts between the mixed-uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary*

Approval Criteria

Adjustment Approval Criteria

PZC Section 33.805.040 A-F

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**



Portland Citywide Design Guidelines

02: Create positive relationships with surroundings.

Possible design approaches may include, but are not limited to:

- Building Massing – Developing effective placement and proportion of building massing toward adjacent lower-scale development and residential uses; and
- Street Wall – Maintaining a vibrant street wall with continuous storefronts along historic main streets.

03: Integrate and enhance on-site features and opportunities to contribute to a location's uniqueness.

Possible design approaches may include, but are not limited to:

- On-site older buildings and historic resources – retaining existing older buildings and historic resources; and
- Social and cultural significance – Incorporating a site's significant cultural or social history

05: Provide opportunities to pause, sit, and interact.

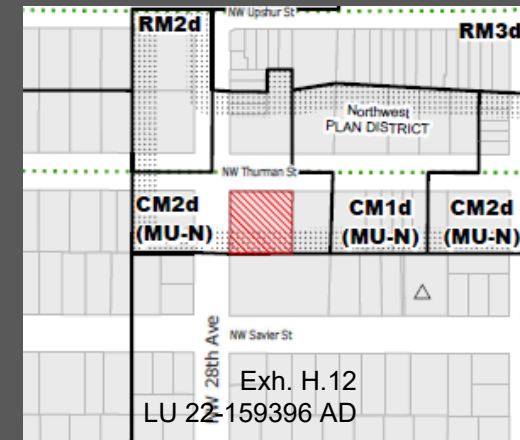
Possible design approaches may include, but are not limited to:

- Seating – providing a variety of seating types for passersby and building users;
- Enclosure - Offering a comfortable buffer and distinction from the public realm; and
- Trees and Landscaping - Promoting health and wellness by helping to mitigate the effects of urban heat island.

Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

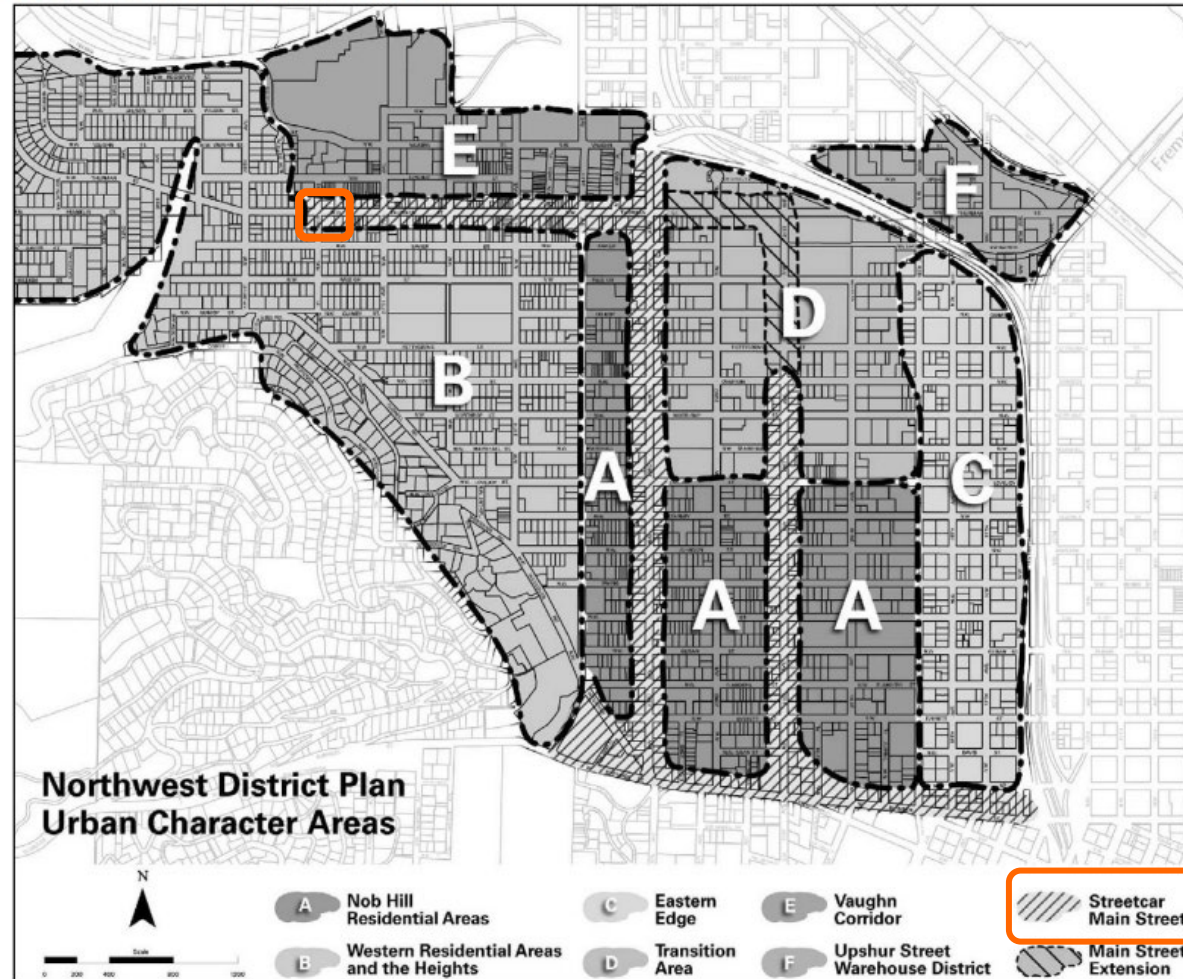
B. If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an **OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area**



The Northwest District Plan

The Streetcar Era structures that define the character of the main streets, portions of which are located within the Alphabet Historic District, should be preserved or adaptively reused. New development should incorporate architectural features that characterize the district's main streets, such as large storefront windows, awnings and upper-story residences, and should continue the historic pattern of a continuous frontage of buildings and active uses located close to sidewalks. Large retail developments should be integrated into the main streets' fine grain urban pattern and mix of uses through strategies such as including spaces suitable for small tenants along street frontages or by including upper-floor residences. Where appropriate, development should include outdoor space for dining and other activities that contribute to a vibrant urban environment. Disruptions to the continuity of the main street pedestrian environment by curb cuts, driveways, garage fronts and surface parking areas should be avoided. (Page C-18).

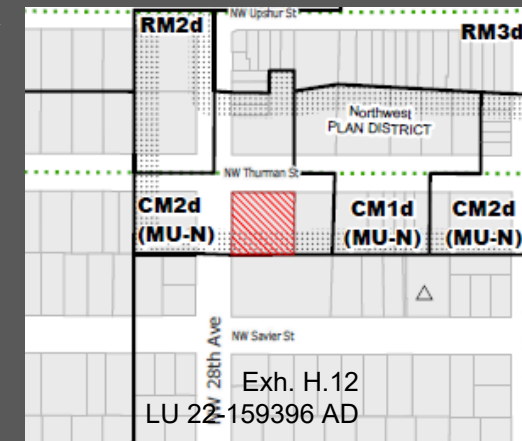
Map 4: Urban Character Areas



Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

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



The Northwest District Plan

Land Use Objectives (Page E-6)

- C. Concentrate a mix of higher intensity residential and commercial development along main streets and the Portland Streetcar line.
- D. Reinforce main streets and the Portland Streetcar line as the focus for retail activity in the District.

Business and Economic Development Objectives (Page E-34)

- B. Encourage commercial development that is oriented to pedestrians.
- E. Encourage new commercial development and job creation opportunities to locate along main streets, the Portland Streetcar line, and close to the I-405 freeway.

Urban Design Objectives (Page E-38)

- A. Integrate new development with the existing urban fabric by acknowledging the scale, proportions, orientation, quality of construction and other architectural and site design elements of the building's immediate area.

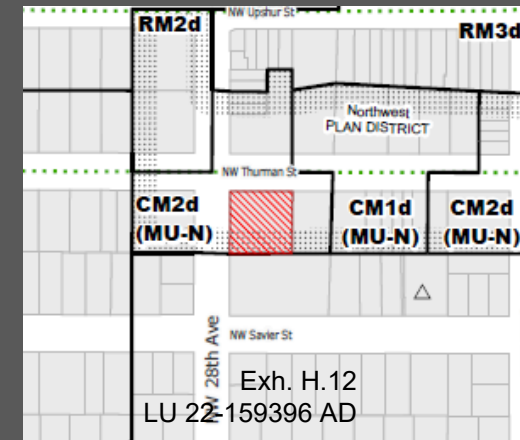
Thurman-Vaughn Subarea Objectives (Page E-70)

- A. Enhance NW Thurman Street as a neighborhood-oriented main street that is primarily residential, with commercial uses clustered at intersections.

Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

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**



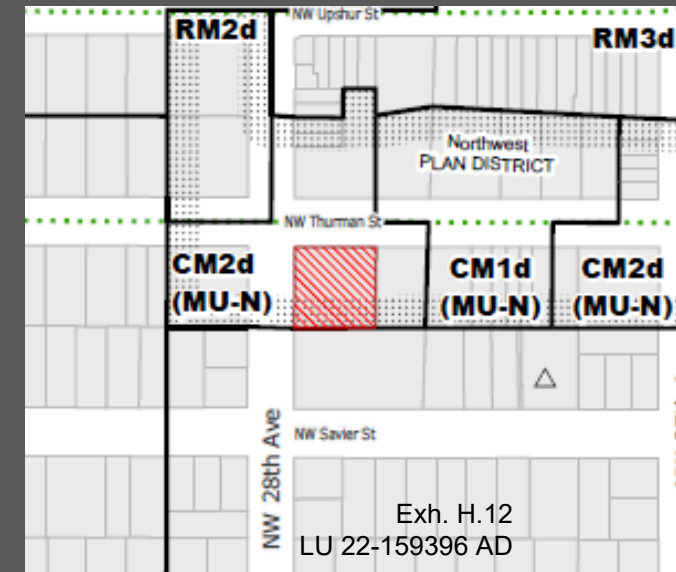
Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

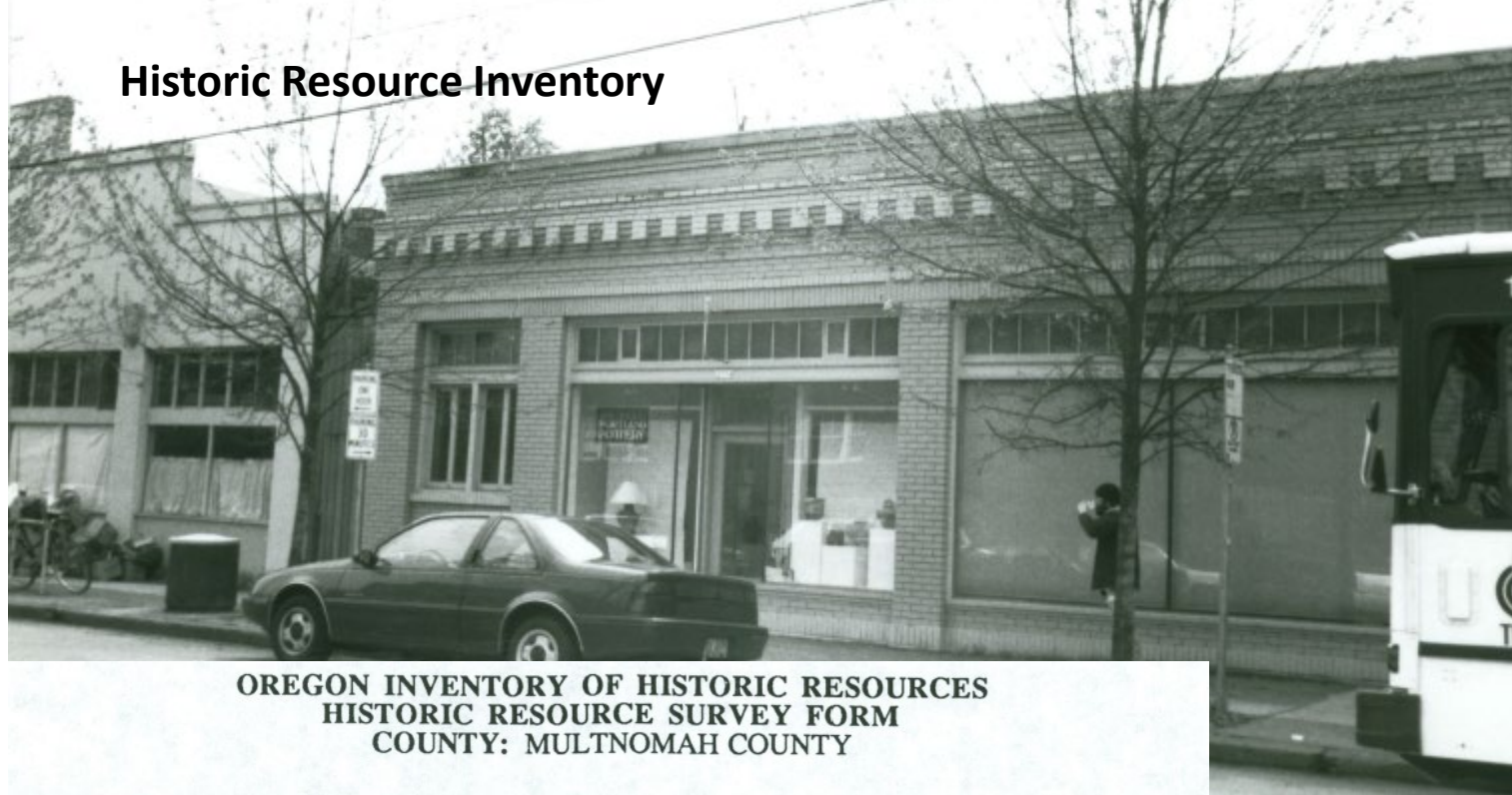
C.If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone

33.130.030 CM2 Character Statement

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



Historic Resource Inventory



OREGON INVENTORY OF HISTORIC RESOURCES HISTORIC RESOURCE SURVEY FORM COUNTY: MULTNOMAH COUNTY

STATEMENT OF SIGNIFICANCE

Architectural: The building, constructed in 1914, was designed in the Commercial style. The building was occupied by the Orderly Cleaning Works, a pressing company according to the 1935 and 1940 Portland city directories. Characteristics embodied in the style include the brick construction, corbelled cornice and entablature, soldier coursing above windows, transoms and large storefront windows. Alterations include the installation of metal sash windows and new doors. The small commercial building is a good example of its type.

SPECIAL FEATURES AND MATERIALS:

Easternmost section of Thurman Street facade has a corbeled brick parapet, entablature, and decorative belt course above windows. Large store windows and transom with square lights.

SPECIAL F/M - ORIGINAL REMOVED:

Most of exterior facade has been remodeled with new doors, windows, asphalt siding, and plywood.

SPECIAL F/M - SIGNIFICANT ALTERATION:

Round-arched windows and door openings along back alley closed; niches remain.



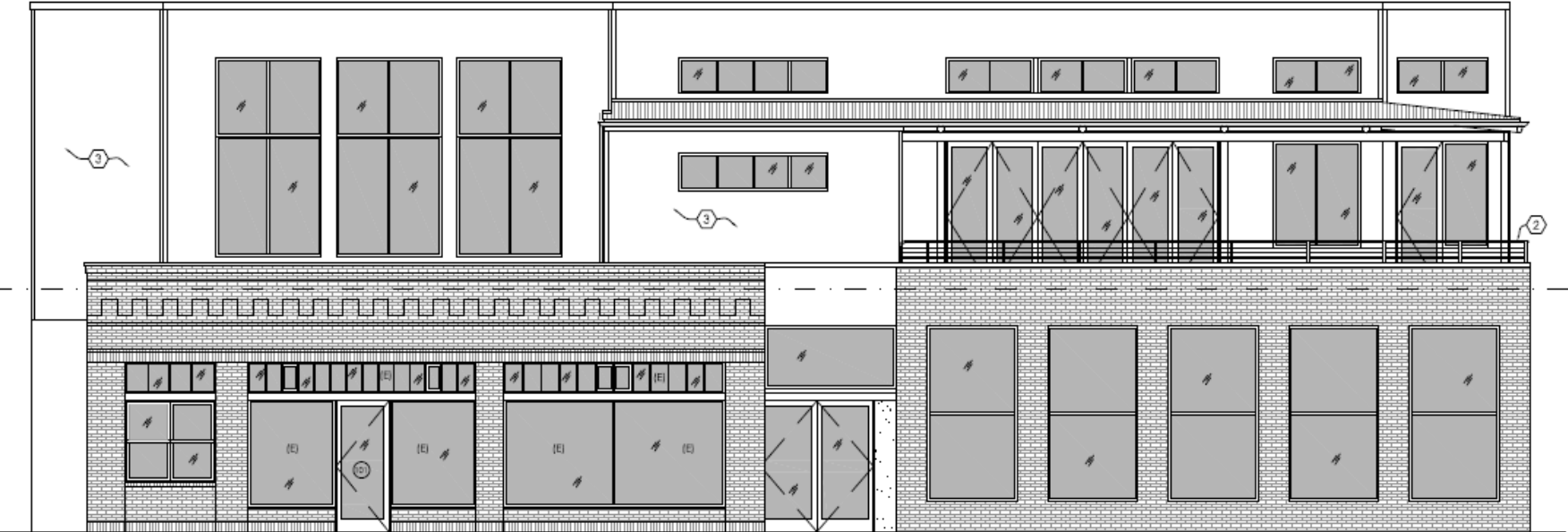
Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

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



North Elevation Existing

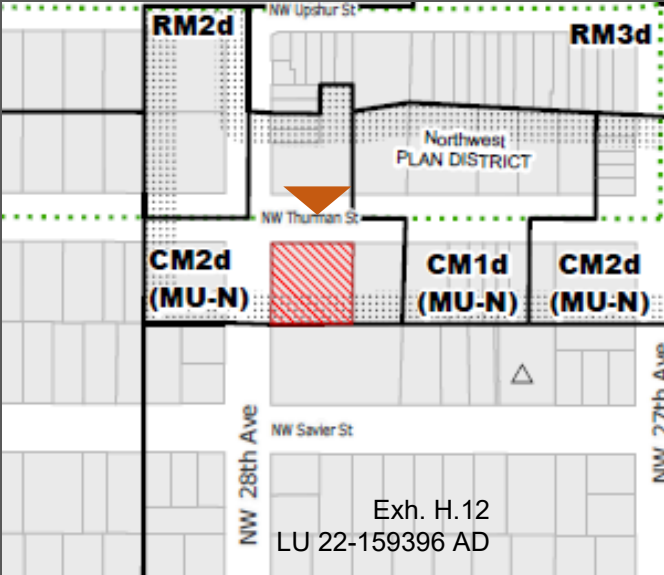


Proposed

Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

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



Impacts resulting from the Adjustments are mitigated to the extent practical as follows:

- The significantly reduced height and FAR reduces the massing of the building, helps maintain light and air, and provides a transition to the adjacent multi-dwelling development to the south.
- Customer seating will not be provided within 10 feet of the southern lot line
- The landscaping will promote privacy, provide a transition to the neighboring residences to the south, and improve the appearance of the site.
- In order to address neighbor concerns about customer noise on the patios, particularly at night, the applicant has proposed a new gate/fence at the southwestern edge of the site to limit access when the business is closed and signage at all patio access doors (2 on the ground level and 2 at the upper level) stating: “South outdoor areas closed to customers after 10 PM.”

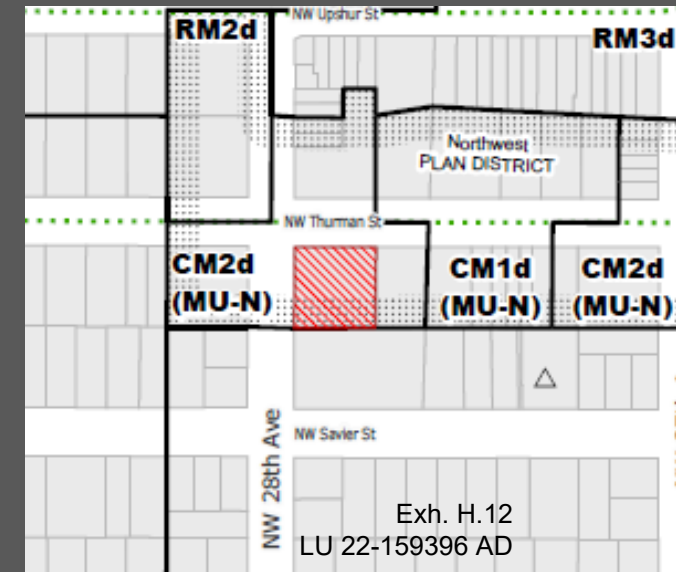
Condition of approval:

The landscaped buffer areas along the southern edge of the seating areas must be continuously maintained in a healthy manner. Plants that die must be replaced in kind.

Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

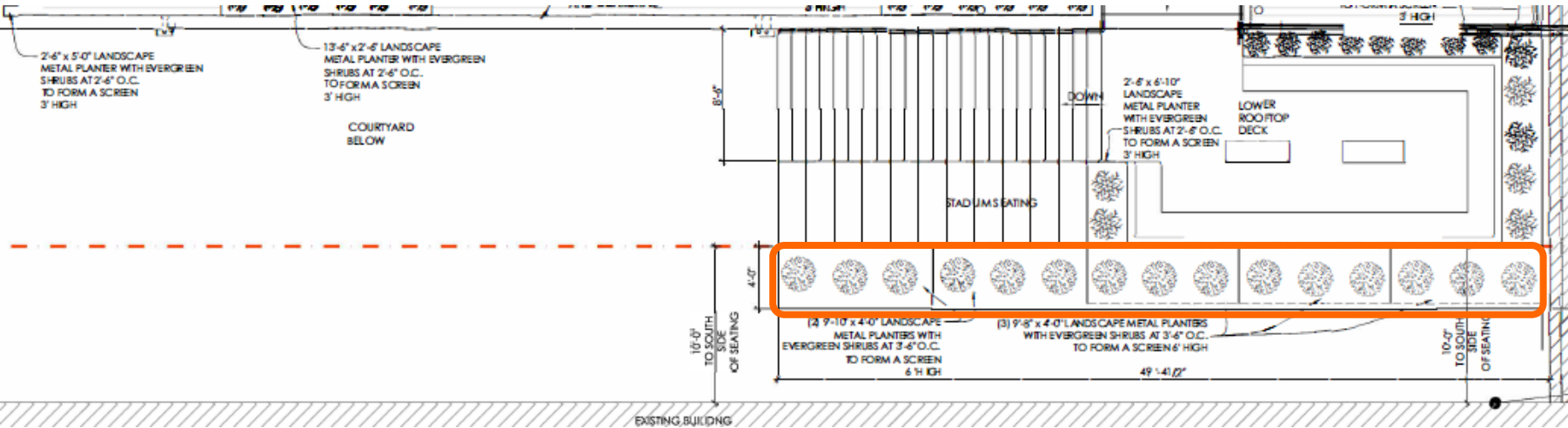
E. Any impacts resulting from the adjustment are mitigated to the extent practical



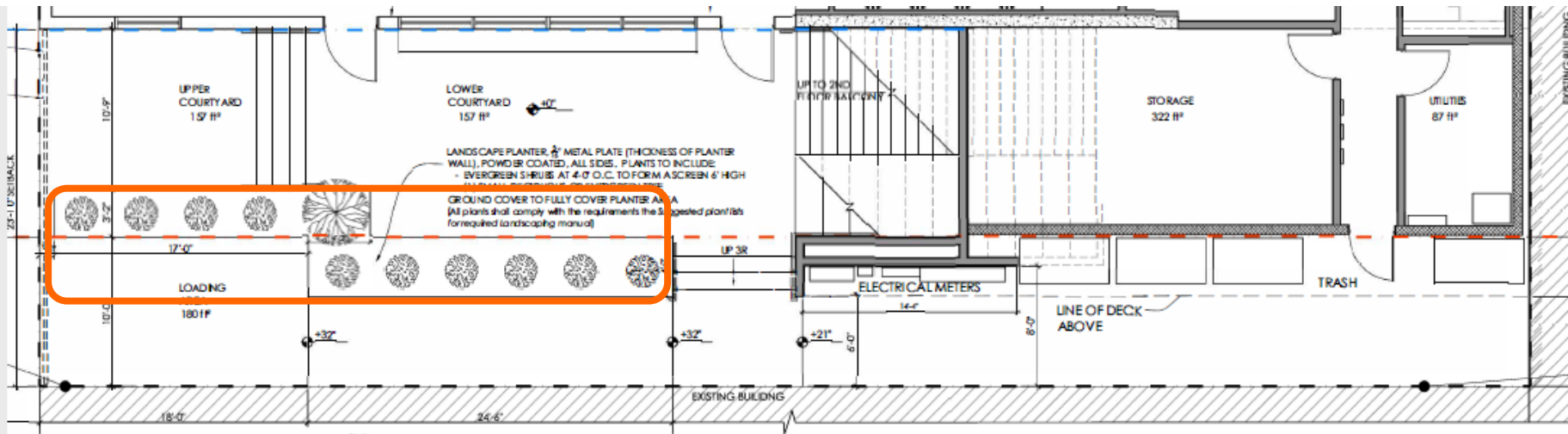
Approval Criteria

Adjustment Approval Criteria
PZC Section 33.805.040 A-F

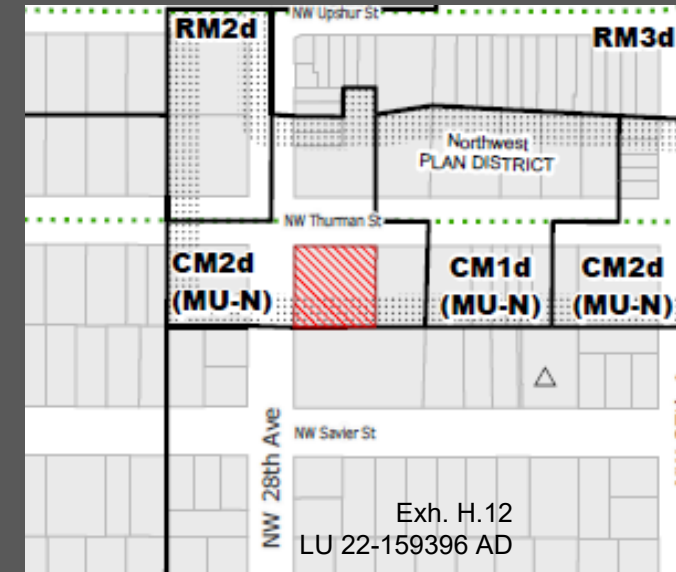
E. Any impacts resulting from the adjustment are mitigated to the extent practical



Second Level

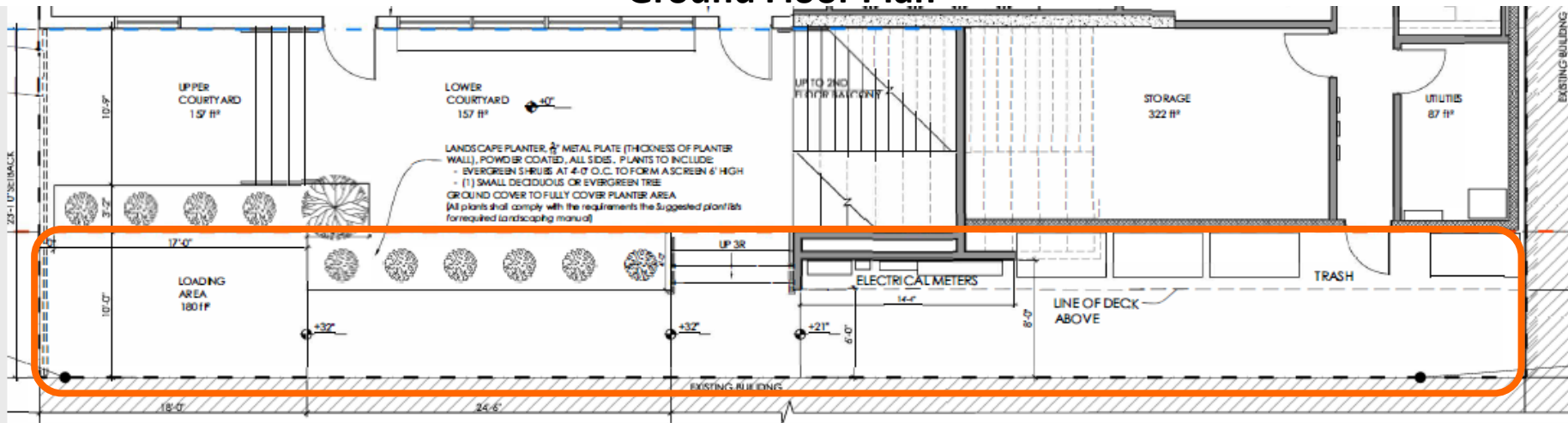


Ground Level

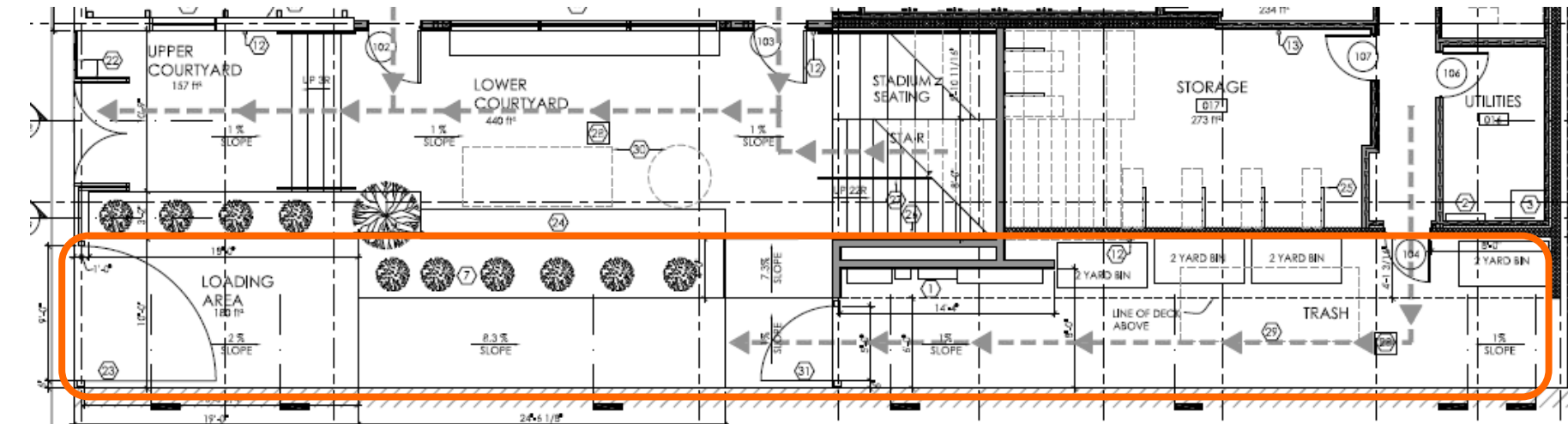


Exh. H.12
LU 22-159396 AD

Ground Floor Plan



Adjustment submittal



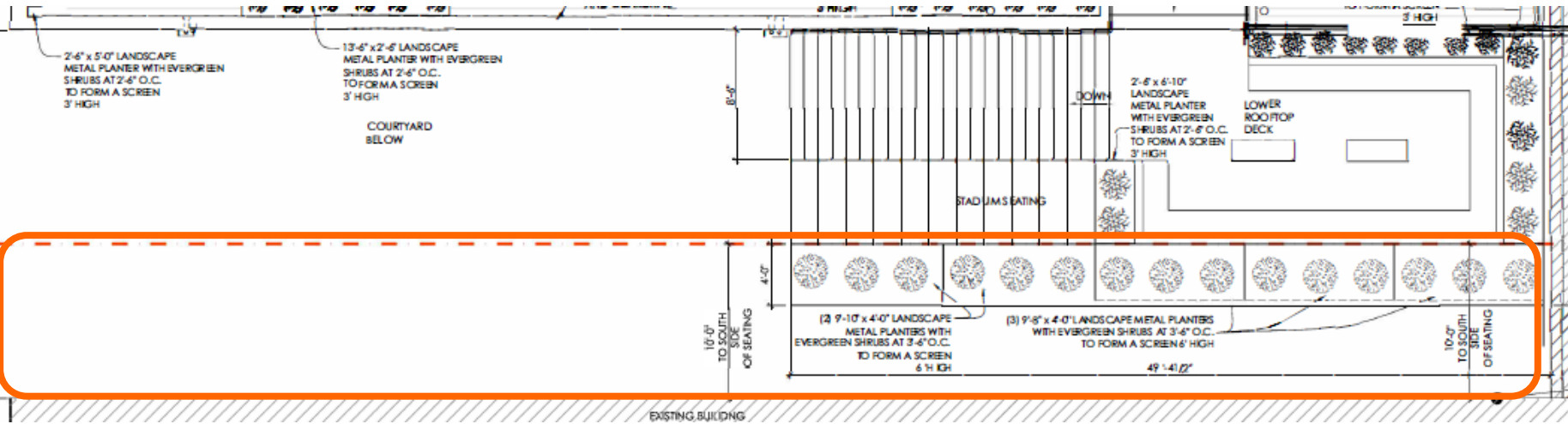
4/13/23 Revision

Revisions

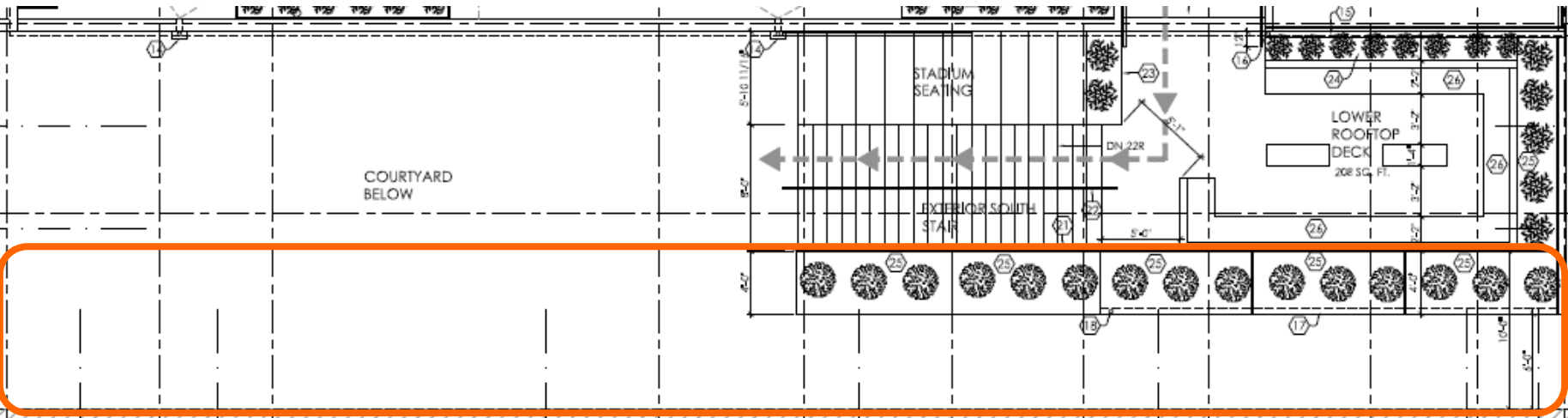
Revision - April 13, 2023
- April 19, 2023

- Exterior stadium seating and stairs between patios are flipped (with stadium seating at the north and the stairway at the south) to provide an uninterrupted landing at the bottom of the staircase;
- More detailed gate and fencing information has been added along the 28th avenue ROW at the west end of the courtyard and loading area;
- A gate/ screen is provided at the west end of the trash and electric meter location to help better enclose this area; and
- Stairs between south courtyard and southernmost access area are removed (slopes as determined by civil are indicated).

Upper Floor Plan



Adjustment submittal



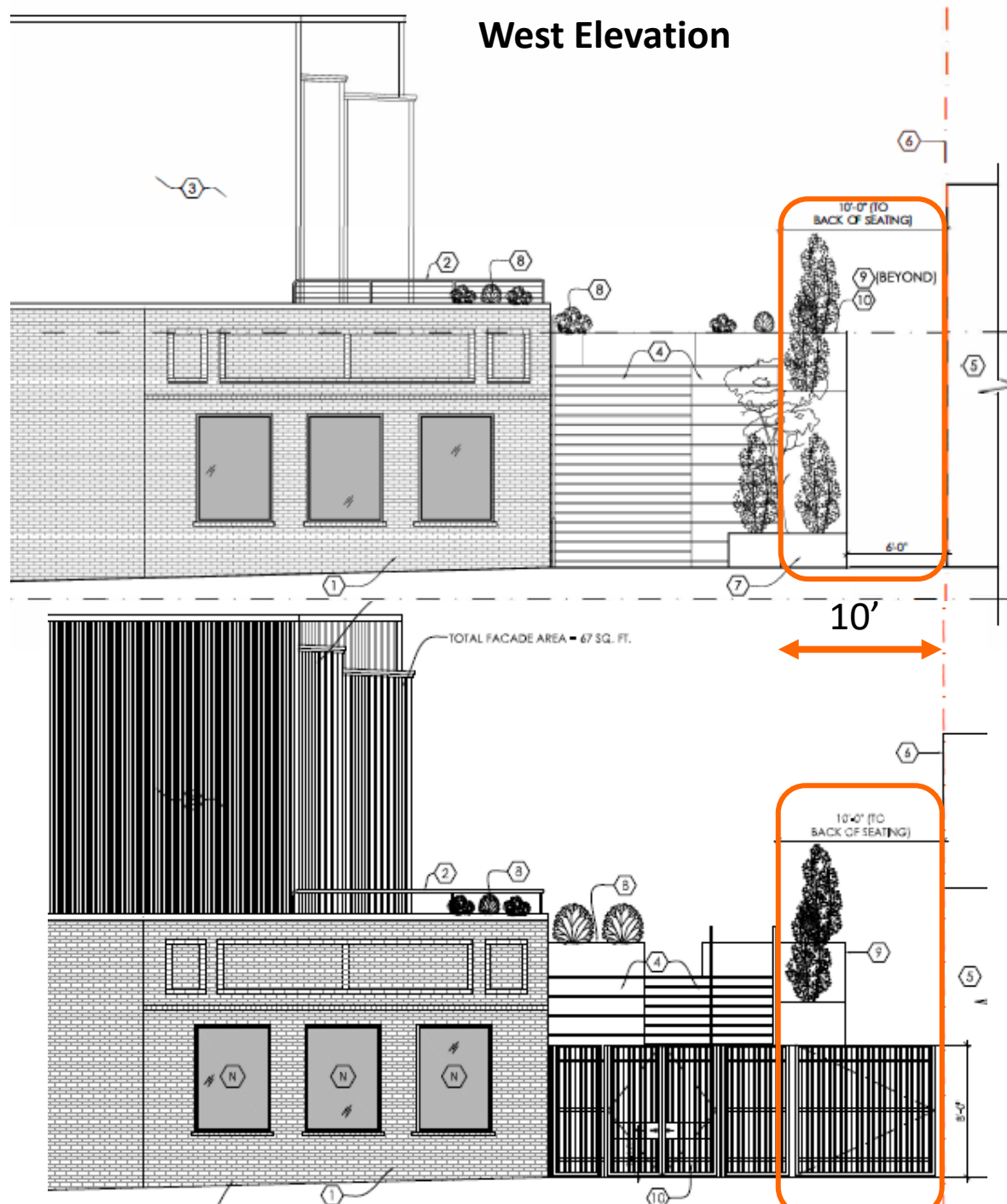
4/13/23 Revision

Revisions

Revision - April 13, 2023
- April 19, 2023

- Exterior stadium seating and stairs between patios are flipped (with stadium seating at the north and the stairway at the south) to provide an uninterrupted landing at the bottom of the staircase;
- More detailed gate and fencing information has been added along the 28th avenue ROW at the west end of the courtyard and loading area;
- A gate/ screen is provided at the west end of the trash and electric meter location to help better enclose this area; and
- Stairs between south courtyard and southernmost access area are removed (slopes as determined by civil are indicated).

West Elevation

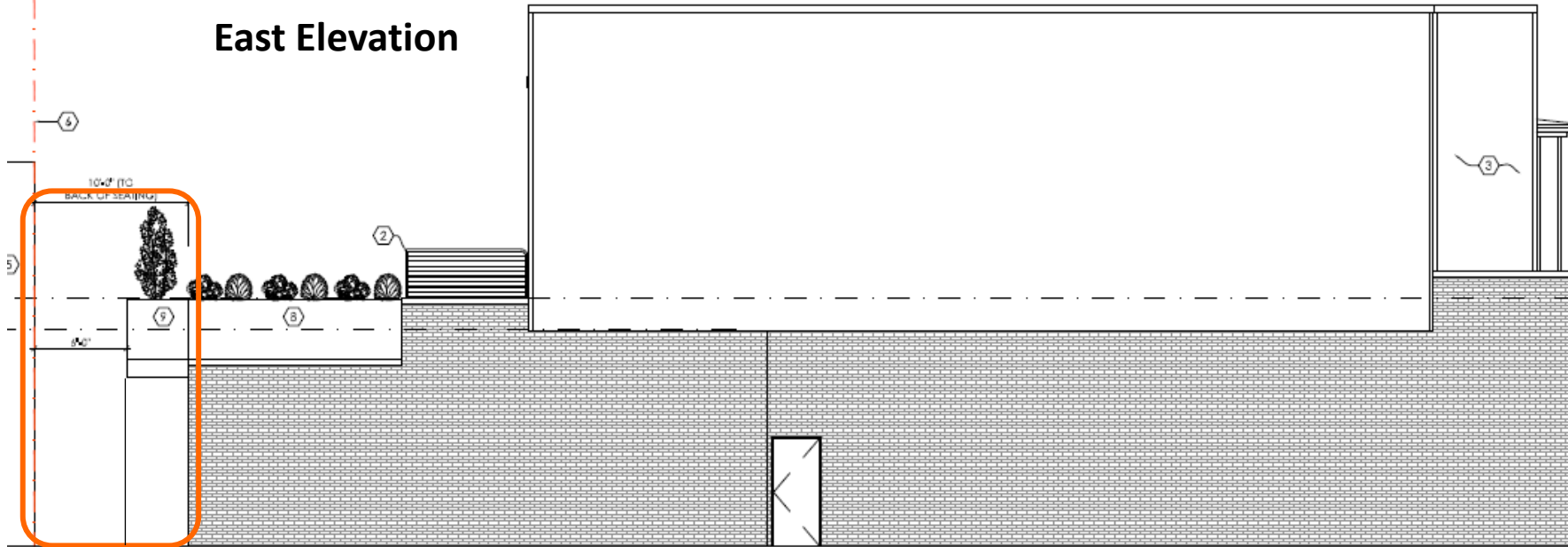


Revisions

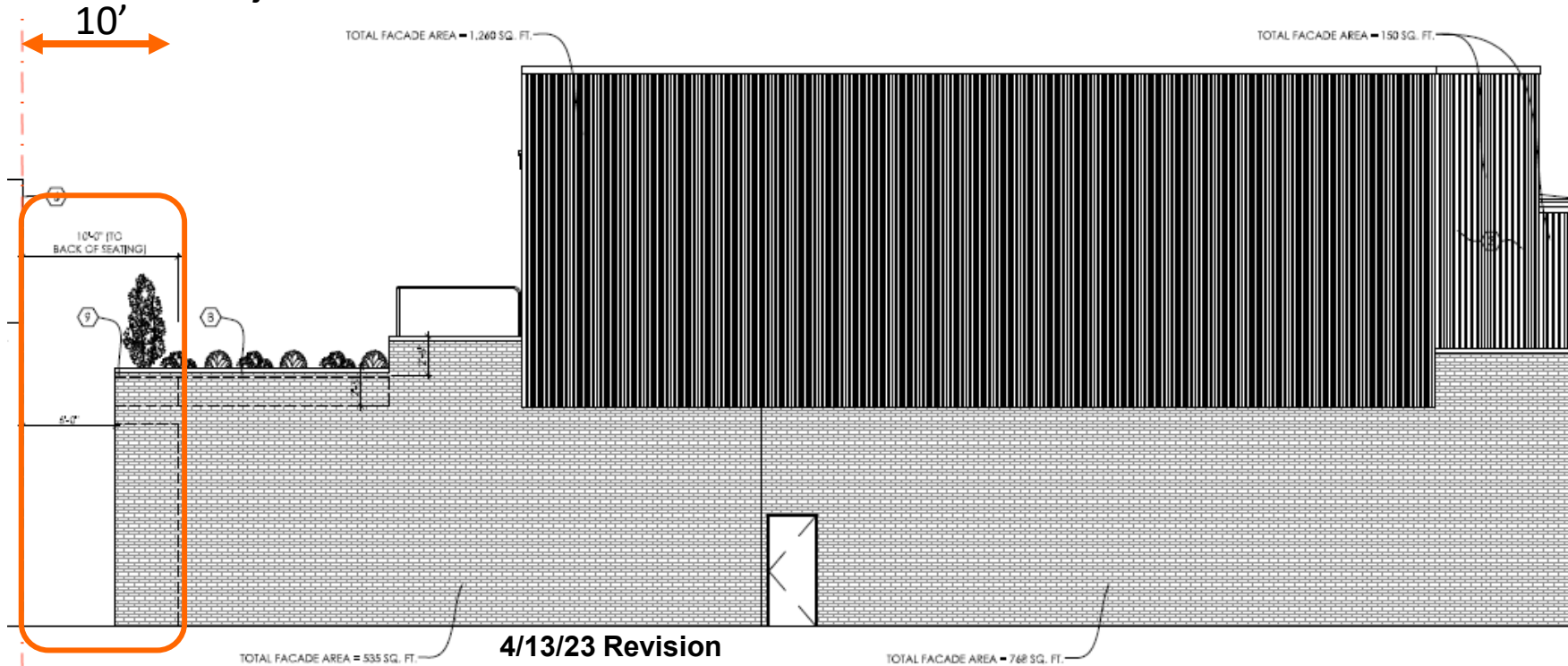
Revision - April 13, 2023
- April 19, 2023

- Exterior stadium seating and stairs between patios are flipped (with stadium seating at the north and the stairway at the south) to provide an uninterrupted landing at the bottom of the staircase;
- More detailed gate and fencing information has been added along the 28th avenue ROW at the west end of the courtyard and loading area;
- A gate/ screen is provided at the west end of the trash and electric meter location to help better enclose this area; and
- Stairs between south courtyard and southernmost access area are removed (slopes as determined by civil are indicated).

East Elevation



Adjustment submittal

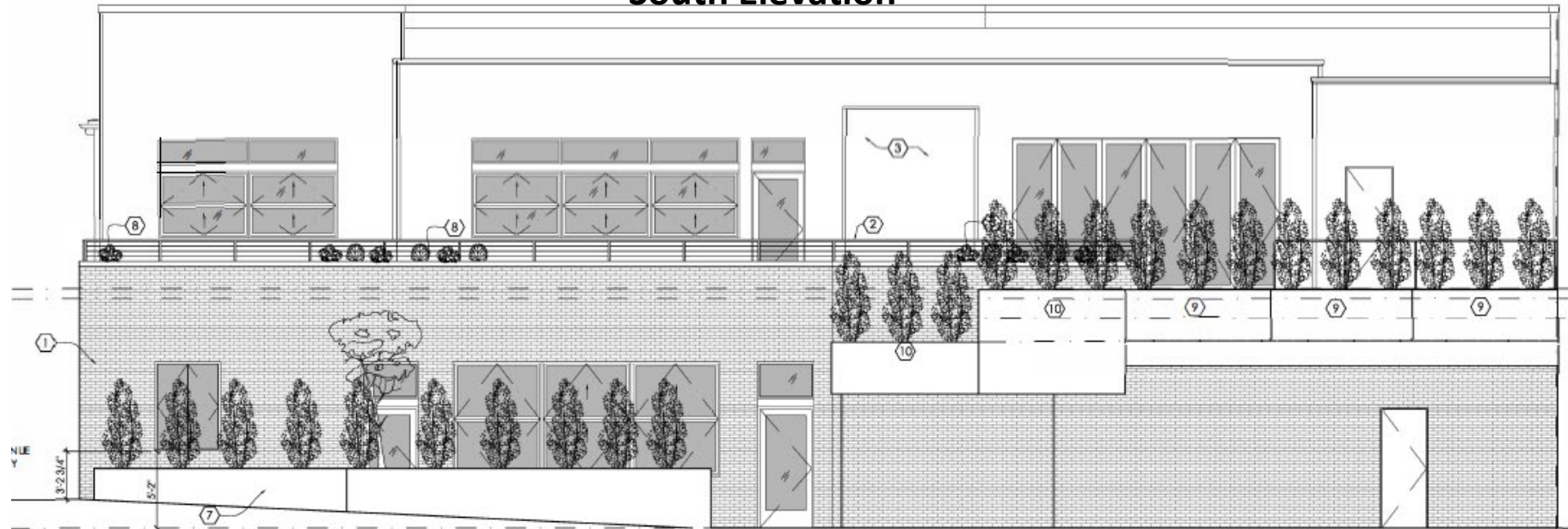


Revisions

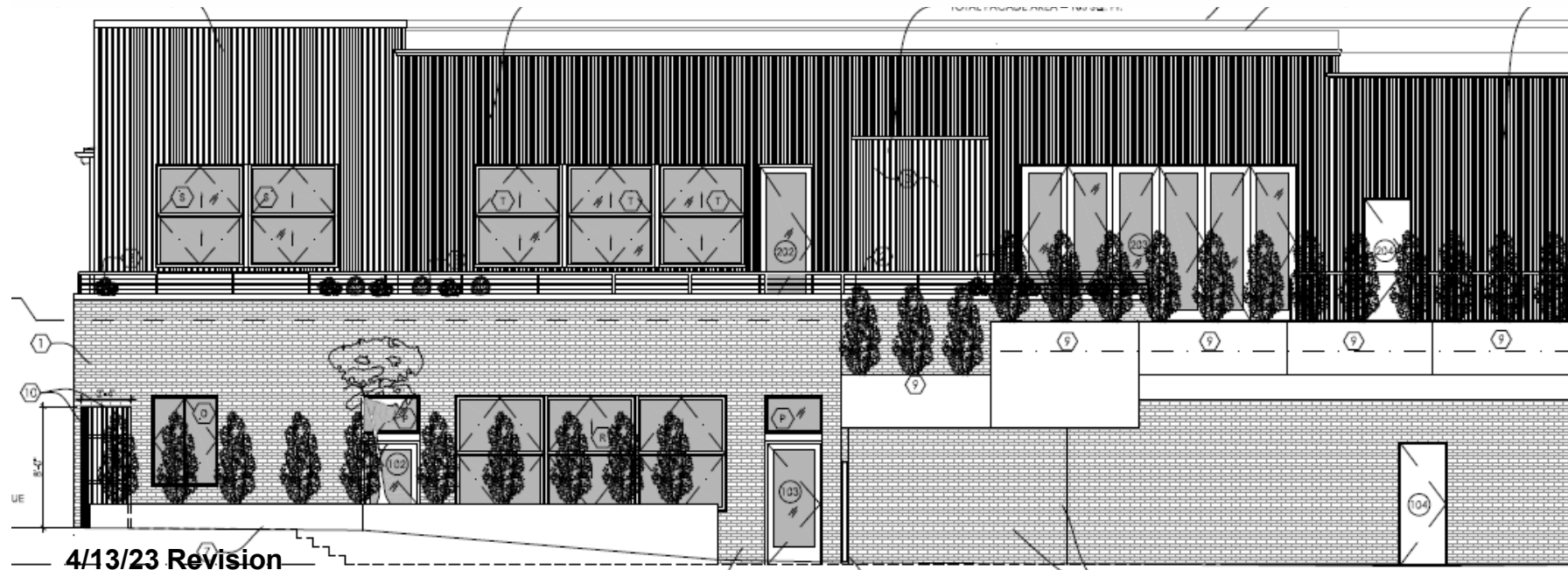
**Revision - April 13, 2023
- April 19, 2023**

- Exterior stadium seating and stairs between patios are flipped (with stadium seating at the north and the stairway at the south) to provide an uninterrupted landing at the bottom of the staircase;
- More detailed gate and fencing information has been added along the 28th avenue ROW at the west end of the courtyard and loading area;
- A gate/ screen is provided at the west end of the trash and electric meter location to help better enclose this area; and
- Stairs between south courtyard and southernmost access area are removed (slopes as determined by civil are indicated).

South Elevation



Adjustment submittal



4/13/23 Revision

Revisions

Revision - April 13, 2023
- April 19, 2023

- Exterior stadium seating and stairs between patios are flipped (with stadium seating at the north and the stairway at the south) to provide an uninterrupted landing at the bottom of the staircase;
- More detailed gate and fencing information has been added along the 28th avenue ROW at the west end of the courtyard and loading area;
- A gate/ screen is provided at the west end of the trash and electric meter location to help better enclose this area; and
- Stairs between south courtyard and southernmost access area are removed (slopes as determined by civil are indicated).



Questions

Exh. H.12
LU 22-159396 AD

- | | |
|---|---------|
| 1. Staff Presentation | 10 min |
| 2. Appellant 1 (Mary DeVries) | 10 min |
| 3. Appellant 2 (Thomas Cutler) | 10 min |
| 4. Supporters of the Appellants | 2-5 min |
| 5. Applicant (Principal Opponent) | 30 min |
| 6. Other Opponents | 2-5 min |
| 7. Appellant 1 Rebuttal (Mary DeVries) | 5 min |
| 8. Appellant 2 Rebuttal (Thomas Cutler) | 5 min |
| 9. Close Public Testimony | |
| 10. Commission Deliberation | |

April 27, 2023

Submitted Electronically

Design Commission
City Of Portland
1900 SW Fourth Ave, Suite 5000
Portland, Oregon 97201

Re: LU 22-159396 AD – Appeal
Hearing: April 20, 2023; 1:30 P.M.

Dear Design Commissioners,

I am writing to clarify our position regarding the proposed project at 2788 Thurman Street, and the effect this project will have on the livability of our neighborhood.

To be clear, we understand and support many of the proposed features of this project. We understand that this project might take place despite our concerns or preferences for the type of development at the site. We had hoped, however, that the impact on the neighborhood residents would be considered as well as what is "allowed" within zoning code. The developer's intention to direct the project's most significant impact (trash collection, deliveries, noise, outdoor seating, and pedestrian traffic) towards the adjacent residential neighborhood rather than the commercially zoned area in which it is located, is frustrating and we feel our concerns are not being heard or duly considered.

Honestly, it hard to fathom how this project will comply with Portland's laws limiting noise that govern the site's southern boundary, and now, Mr. Standlee confirms that it will not. We suspect for them to comply with city noise restrictions, they will need a buffer such as Thurman Street in addition to the higher noise limits allowed in the commercial zone.

Specifically regarding the adjustment:

First, Nascent has still not yet shared the most current configuration of the planned project. When our HOA met with Nascent's representative, he mostly referred to an alternative plan that does not depend on the adjustment. From what we saw of that plan, it eliminated the driveway and the lower section is used to store garbage.

This alternative site plan is preferable to us than what is allowed with the adjustment granted. It seems to somewhat reduce the outdoor capacity that is adjacent to our residences versus that of the layout envisioned in the adjustment-dependent configuration. We hope the appeals board will reject adjustment and encourage this plan instead.

Second, the Trolley Car Lofts building is over 100 years old, and the brick requires periodic brickwork, such as tuckpointing and sealing. Should the setback be reduced to 6 feet, contractors will have to use scaffolding rather than a man lift to service the wall on the property line. A contractor has already advised us that for our upcoming work, this would increase the cost by 30% - 50%. Why should the HOA have to pay increased costs to maintain a shared wall

for an unnecessary adjustment? Especially considering Nascent has not been considerate of our requests for mostly minor changes to their design plan.

Third, it was noted in the appeal hearing that the Northwest Neighborhood Association approved the planned project. This is inaccurate as its approval was conditional upon Nascent doing a sound impact study with an audio engineer and having a Good Neighbor Agreement in place.

We have not seen a noise impact study completed by Nascent. Without this study, granting the adjustments and proposed plan as presented is extremely worrisome. Adjustments should not be granted until after a noise impact study is done for the project, both with and without the adjustment. This is especially evident after receiving Mr. Standlee's analysis.

Good Neighbor Agreements are non-enforceable. They depend upon the developer and its tenants being good neighbors, who are willing to work with residents. Thus far, Nascent has not cared to behave as a "good neighbor." I cite two obvious examples that are of concern. Nascent has not maintained 2788 NW Thurman Street since it purchased the site. The alley is currently strewn with trash, including garbage bags of leaves from November leaf day. In addition, when our HOA asked for site access to maintain a shared drain and maintain our wall, the response was not inspiring. We were told that we should hide the drain issue from the city and that Nascent owners would not discuss access to the wall if the HOA opposed the project.

Obviously, Nascent owners benefit from the wall being maintained. Out of self-interest, and consistent with the 100+ year history, the HOA will eventually be allowed to do this work, so why make the threat? After this encounter, we believe that if the adjustments are granted, then Nascent should have to bear the additional cost incurred for wall maintenance (see above).

While agreeing to a sound impact study, Nascent has not done (or shared the results of) this study. While agreeing to abide by a Good Neighbor Agreement, Nascent has not produced this document either. Since this is an unenforceable agreement shown as ineffective in the recent Cafe Nell situation, there is a particular sensitivity to relying on this anyway as a check on development.

Finally, we did not have the time we thought during the appeal hearing. Had we been given the time we believed we had during the appeal, we would have asked that the Commission impose the following as permit conditions:

1. Restrict operating hours so business closes by 10 pm. This allows time for restaurant shut down noise to be finished by 11 pm. Adjustment will allow for more activity on the south side of the project, so hours need to be clearly defined in advance of granting adjustment.
2. Ambient noise outside of the site remains < 55 decibel that city code requires in residential neighborhoods.
3. Prohibit outdoor live or recorded music on the south side of the building.
4. Prohibit outdoor cooking.
5. Ensure that the delivery van parking area is limited to delivery van use only and that it explicitly prohibits that space from being used for dining, music, or any other activity.
6. Parking is limited to delivery vehicles actively delivering or receiving goods.

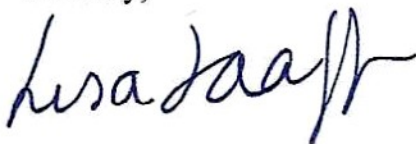
7. 8 ft fence along the patio on the 28th Ave side of the building. The fence should have 50% visibility or less. The gate can include a sliding gate to accommodate delivery van parking.
8. Patio access is to be from Thurman through the building rather than from NW 28th. The intention is to direct foot traffic and congregation away from the Residential area.
9. Given the majority of outdoor seating is currently on the south side, restrict sidewalk dining to Thurman Street.
10. Property Manager to be onsite during all operating hours
11. Vent kitchen odors so they do not reach the TLHOA and maintain air-conditioner and kitchen vent sounds in compliance with "2" above.
12. Perpetual Easement allowing Trolley Car Loft access to the shared wall and garage drain maintenance
13. Agreed concessions should also include a provision that Nascent lease to tenants have the corresponding restrictions.
14. If adjustment is granted, Nascent agrees to cover any cost difference between using a man lift and scaffolding for south wall maintenance.

At first glance, the 6-foot adjustment may seem to be a minimum imposition on the site's neighbors versus a 10' adjustment. However, more space on the southern side means the residential neighborhood bears the brunt of the noise from delivery trucks and garbage trucks, risks that this space will one day be used for more seating or events, and the HOA faces 30% - 50% additional costs for routine maintenance projects for a shared wall. There is frustration involved as well. It is difficult to support adjustments to make delivery and garbage collection easier for Nascent's project when Nascent ownership has been unwilling to address our most crucial concern: the noise that will come from outdoor dining being concentrated on the south - residential - side of the property.

We sincerely hope on reflection and consideration of the above and the sound engineer's report, the Commission will consider either denying the application, extending the hearing period by requiring the distribution of the site plans (both the adjustment/no adjustment versions), or include some/all of the above as approval conditions.

We thank you for your consideration.

Sincerely,



Lisa Taaffe



Elliot Levin



Thomas H. Cutler

Email: thomas@cutlerlawgrp.com

Cutler Law Group, LLC | 15585 SE River Rd. | Oak Grove, OR 97267 | Phone: 503-888-9318

April 28, 2023

Submitted Electronically

Design Commission
City Of Portland
1900 SW Fourth Ave, Suite 5000
Portland, Oregon 97201

Re: LU 22-159396 AD – Appeal
Hearing: April 20, 2023; 1:30 P.M.

Dear Design Commissioners,

I represent Elliot Levin and Lisa Taaffe, who reside at 1704 NW 28th Ave, Portland, Oregon 97210. Thank you for leaving the record open for the submission of additional evidence. It is my sincere hope that you will seriously consider my clients' and other appellants' additional evidence and the deficiencies in the applicants' submitted evidence before making your final determinations in this appeal. Please keep in mind that it is the applicant's burden to prove compliance and entitlement to a favorable decision on its application. The points in this supplemental letter and the preceding submissions and testimony do in fact address the conditions of approval for adjustments. Subsection B of 133.805.040 broadly requires the project "proposal" to be consistent with the classifications of the adjacent streets and the desired character of the area. Three other subsections, i.e., A, C, and E of 133.805.040 require consideration of "adjustments." All four subsections, A, B, C and E either expressly, or impliedly require consideration of impacts on neighboring properties and the surrounding area.

To determine if they "equally or better meet the purpose of the regulation to be modified," whether there is consistency with the "overall purpose of the zone" and whether "**any** impacts resulting from the adjustment are mitigated to the extent practical," such impacts must be considered. Subsection E requires consideration of impacts and mitigation expressly. Impacts and mitigation can only reasonably refer to impacts on the surrounding neighbors and area. Contrary to staff's apparent belief, the code requires consideration **of all** potential impacts, including noise. Noise is not specifically mentioned, because the subsections are broadly worded so as to include all types of adverse impacts, i.e., noise, visual impacts, odors, vibrations, traffic, conflicting use, etc. (even though none are specifically mentioned.) If this were not the case, the approval criteria would be meaningless, not requiring consideration of any impacts nor

mitigation of impacts on the surrounding community before an applicant is relieved from the requirements of complying with the city's code.

The applicant's suggestion that shortened setbacks are not only permissible but actually result in a better, less impactful project for the neighborhood is unfounded and disingenuous. According to the applicant, if the 10-foot side setback were enforced, the only result would be the elimination of the deck planter boxes, with the deck area and capacity remaining the same. They have provided no alternative plans nor evidence that such would be the case or that such revised plans would be approved by the city. Placing code-required landscaping at ground level right next to the Trolley car lofts building is not an option for the applicant for multiple reasons. Such placement would give no benefit to the developer/owner or to the neighbor, and planted vegetation may not be able to grow or thrive right next to a tall brick wall. Moreover, no vegetation can be planted next to or near the wall because access must be preserved to allow for its maintenance, as has been the case for more than 100 years. The applicant and staff have largely ignored this issue. It is a legal and factual reality for the applicant. The applicant has not shown that it has any legal right (nor practical, genuine intention) to put vegetation at ground level within the 10-foot setback, nor that it has any legal right to build the proposed deck within the 10-foot setback, for that matter. The reality is, if the setback adjustment is not granted, the planters would still be required, for design, visual impacts and patron comfort and privacy if nothing else, and to satisfy the vegetation requirement not otherwise possible at ground level. If the full setbacks are enforced the whole patio layout and outdoor seating area would move over and be shortened by 4 feet along its full length, resulting in a substantial net loss of deck square footage. Compliance with the code as written would result in less deck occupancy, less people, less noise, less commotion, and fewer impacts on neighbors.

In light of the above, and the additional evidence below, the applicant's assertions that the project as modified and with adjustments will have "no impacts" on the surrounding residential neighbors is simply absurd. As promised, we are attaching additional evidence, expert opinion and argument from a respected, qualified acoustical engineer, Kerrie Standlee, P.E. His letter is attached. He testifies as to the particular sound dynamics of this project as proposed, with adjustments and as conditioned, concluding that the residences and surrounding area will be substantially impacted, the applicant and staff have failed to properly consider noise impacts, and the resulting decision fails to properly condition approval so as to properly mitigate such impacts. Mr. Standlee notes the problems of having the south decks between three hard surfaced walls, that the sound level within the deck area will be louder than would normally be expected due to the number of people potentially located on the decks, and due to reflected sound caused by the surrounding walls. He estimates noise on the south decks to be "in the range of 70 dBA due to the addition of sound from individual voices and the effect of reflected sound from the walls. And, because there will be reflected sound in the area, the sound traveling over the parapet wall to 2nd floor residential windows of some of the condominiums to the south could possibly be as high as 60 dBA." Title 18, of course limits daytime noise to 55 dBA as measured at the boundary of the residential zone, i.e., at the brick wall, even before the noise travels to residential windows. See 18.10.010, subsections A and E.

Mr. Standlee also expresses serious concern over the lack of mitigating conditions for the section of the south wall of the building that will have a metal folding door system that can be opened to the deck area. He notes, "any sound generated within the building will basically radiate to the outdoor deck area, even if the deck is closed. So, if music or loud voices occur inside the building, that sound will radiate through the opening to the deck area. And, because the opening is an elevated area opening, the parapet to the south will have very little effect in reducing sound traveling to residential receivers south of the deck area." Mr. Standlee recommends conditioning approval with limitations on when the doors can be left open.

Mr. Standlee testifies about numerous other sound-related facts, deficiencies, and issues, including many failures to include needed and desirable conditions of approval. We urge the commissioners to carefully consider all of Mr. Standlee's letter, and to adopt his recommendations. Appellants also request that a full sound study be required of the applicant, including an analysis of the real noise impacts of this project, recommended mitigation measures, proposed limitations, and the effectiveness of those measures and limitations.

We urge the board to request that the conditions of approval in the current decision itself be corrected and supplemented consistent with staff's findings and recommendations (staff indicates numerous limitations, conditions and mitigation measures, many volunteered by the applicant itself, which are erroneously omitted from the conditions of approval section of the decision), consistent with Mr. Standlee's well-founded recommendations and consistent with Mr. Levin's very reasonable requests for further conditions of approval to protect the neighbors and the area from expected impacts. Appellants appreciate your time and attention to this important matter. The staff's decision should be reversed, or at the very least remanded, to correct the proceedings and properly apply the applicable criteria and require needed conditions.

Very truly yours,

_____/S/_____
Thomas H. Cutler

April 26, 2023



Design Commission
City of Portland
1900 SW Fourth Ave, Suite 5000
Portland, OR 97201

15399 SW Burgundy Street
Tigard, OR 97224
email: stanhartk@comcast.net

Re: BDS Case File LU 22-159396 AD Application: Noise Impacts on Adjacent Residences
DSA File: 103231

At the request of Thomas Cutler, Attorney, DSA Acoustical Engineers, Inc. reviewed the February 28, 2023, decision rendered by the Bureau of Development Services (BDS) on Case File LU 22-159396. The review was made to determine if there was any reason to believe that noise impacts might be expected at his client's 1704 NW 28th Avenue residential property and surrounding properties, if the proposed development was allowed at 2788 NW Thurman Street, with adjustments and the conditions specified within the decision. This letter presents my findings and conclusions based on material presented within the decision document.

Through a review of the section of the decision document presenting concerns listed by the Northwest District Association (NWDA) representatives and other neighbors of the proposed development, it was learned that there are concerns about noise impacts. The NWDA suggested two conditions be included in the decision to address noise. On page 16 and 17 of the decision, staff discusses criterion, *E. Any impacts resulting from the Adjustment are mitigated to the extent practical; and...* On page 17 of the decision staff discusses the issue of off-site noise and says the applicant has proposed a new gate/fence at the southwestern edge of the site to limit access to the outdoor patio areas when the business is closed and signage at all patio access doors stating the south outdoor areas are closed to customers after 10 p.m. Staff then goes on to say, *as conditioned, this criterion is met.* In reviewing the conditions specified by staff at the end of the decision document, it was noted that neither of the NWDA suggested conditions were actually included. In addition, even though the applicant has indicated that they could take some steps to have an influence on the noise that would be generated on the outside decks, there is no requirement within the conditions of approval requiring those steps be taken. It seems it would be wise to actually include wording in the conditions of approval that reflect what the applicant has indicated they could do, and what the NWDA suggests be done.

In addition to what I found discussed in the Decision document, I wanted to present a discussion of what I did not find in the document. I noted that the applicant's representative discussed the fact that the elevations of the outdoor decks on the south side of the proposed development would place the decks below the elevation of the parapet of the residential building to the south. I noted that the discussion was presented mainly to discuss how the elevation difference would have an influence on the visual impacts between the decks and the residential uses to the south. It was implied that the same effects would apply to noise generated on the decks. That assumption is not correct because, while the visual line-of-sight may be broken by the parapet edge between the deck and the adjacent 2nd floor levels of the residential building (unless there were mirrors on the exterior wall of the commercial building), sound generated on the decks will

reflect off the exterior wall of the commercial building and basically negate much of the noise reduction benefits expected for the difference in elevations.

By having the south decks located between three hard surfaced walls (the wall of the proposed commercial building 2nd floor level, the brick wall of the residential building to the south and the wall of the building to the east), the sound level within the deck area will be louder than would normally be expected due to the number of people potentially located on the decks and due to reflected sound caused by the surrounding walls. The added vegetation in planters on the decks will not help reduce the sound level because the plants will provide no absorption of sound to the space. Based on the potential number of people indicated that could be on the decks, it is possible the outdoor sound level from just people talking could be in the range of 70 dBA due to the addition of sound from individual voices and the effect of reflected sound from the walls. And, because there will be reflected sound in the area, the sound traveling over the parapet wall to 2nd floor residential windows of some of the condominiums to the south could possibly be as high as 60 dBA. These factors should be considered when deciding if the characteristics of the residentially zoned property will or will not be impacted by sound associated with the outdoor deck area.

Based on the existing conditions I see in the area around the proposed development, I expect residential properties in the vicinity of the proposed south deck area will experience sounds not currently experienced, and especially when outdoor ambient noise is generally quieter. While the developer has indicated signage can be placed to show the deck is closed at 10 p.m. at night, there is no discussion as to how early the deck will be open for business. On Sunday mornings, when traffic noise is generally lower, sounds from voices on the deck will have more impact on the residential uses to the south than is currently experienced. This fact should be considered in setting conditions of approval as well.

Finally, I noted in a review of the proposed drawings for the south side of the new development that there will be a section of the south wall of the building that will have a metal folding door system that can be opened to the deck area. There is no mention in the decision document if there will be any restrictions on when that wall section can and or cannot be opened during daytime or nighttime hours. This is an important issue because, if the wall section is opened, any sound generated within the building will basically radiate to the outdoor deck area, even if the deck is closed. So, if music or loud voices occur inside the building, that sound will radiate through the opening to the deck area. And, because the opening is an elevated area opening, the parapet to the south will have very little effect in reducing sound traveling to residential receivers south of the deck area.

Because there could be amplified music played within the building during evening hours if the building is used for a bar or restaurant, it would be advisable to have some limitations on when that folding door could be opened. Otherwise, the sound level reaching the 2nd floor level windows at residential receivers to the south will likely exceed the limits specified in Title 18 for amplified sound and the City's noise control officer will likely be hearing from neighbors

complaining about sound radiating from activities within the building during early morning and late-night hours.

I hope this information will help the Commission in assessing and addressing noise impact concerns voiced by residents in the area. If you have any questions about what is presented, I would be happy to respond to questions.

Sincerely,
DSA Acoustical Engineers, Inc.

Kerrie G. Standlee

Kerrie G. Standlee, P.E.

