

**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](mailto:LandUseIntake@portlandoregon.gov)

To file the appeal, this completed application form and any supporting documentation must be emailed to [LandUseIntake@portlandoregon.gov](mailto: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 2<sup>nd</sup> 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 2<sup>nd</sup> 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 28<sup>th</sup> 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	levinelliott@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 Geary	marcelineg@gmail.com	2884 NW Savier St. Portland, OR 97210	(503)223-4366

DocuSigned by:

Elliot Levin

DocuSigned by:  
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Lisa Taaffe

DocuSigned by:  
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David Greenstein

DocuSigned by:  
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Shelley Jordon

DocuSigned by:  
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Rebecca Cohn

DocuSigned by:  
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Susan Stragnell

DocuSigned by:  
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DocuSigned by:

Deanna Ford

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John Utz

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Lynn Goldstein

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Mary DeVries

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Gayle Kvernland

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Reinier Warschauer

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Stacey Vallas

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Joni Marie Johnson

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DocuSigned by:

Anne Harris

DocuSigned by:  
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Marceline Geary

DocuSigned by:  
8312B234A22A4CE...

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  
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DocuSigned by:  
Martin Davidson  
DocuSigned by:  
Glenn Ford  
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DocuSigned by:  
Bob Clay  
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**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](http://www.portland.gov/bds)

**Date:** March 3, 2023  
**To:** Interested Person  
**From:** David Besley, Land Use Services  
503-865-6715 / [David.Besley@portlandoregon.gov](mailto: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](mailto: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](mailto:planningchair@northwestdistrictassociation.org)  
**Business District:** None  
**District Coalition:** Neighbors West/Northwest, contact Darlene Urban Garrett at [darlene@nwnw.org](mailto: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 area<sup>1</sup>. 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.<sup>2</sup> 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.

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<sup>1</sup> 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.

<sup>2</sup> 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 28<sup>th</sup> 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 (Trolleycar 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 28<sup>th</sup> 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 28<sup>th</sup> 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 area 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, 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 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 28<sup>th</sup> 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 (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.

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 Trolleycar 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 upgrades<sup>3</sup>, 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 28<sup>th</sup> 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*

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<sup>3</sup> 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 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. 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 Subarea<sup>4</sup> 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 28<sup>th</sup> 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 Trolleycafe 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.

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<sup>4</sup> 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 28<sup>th</sup> 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](mailto: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

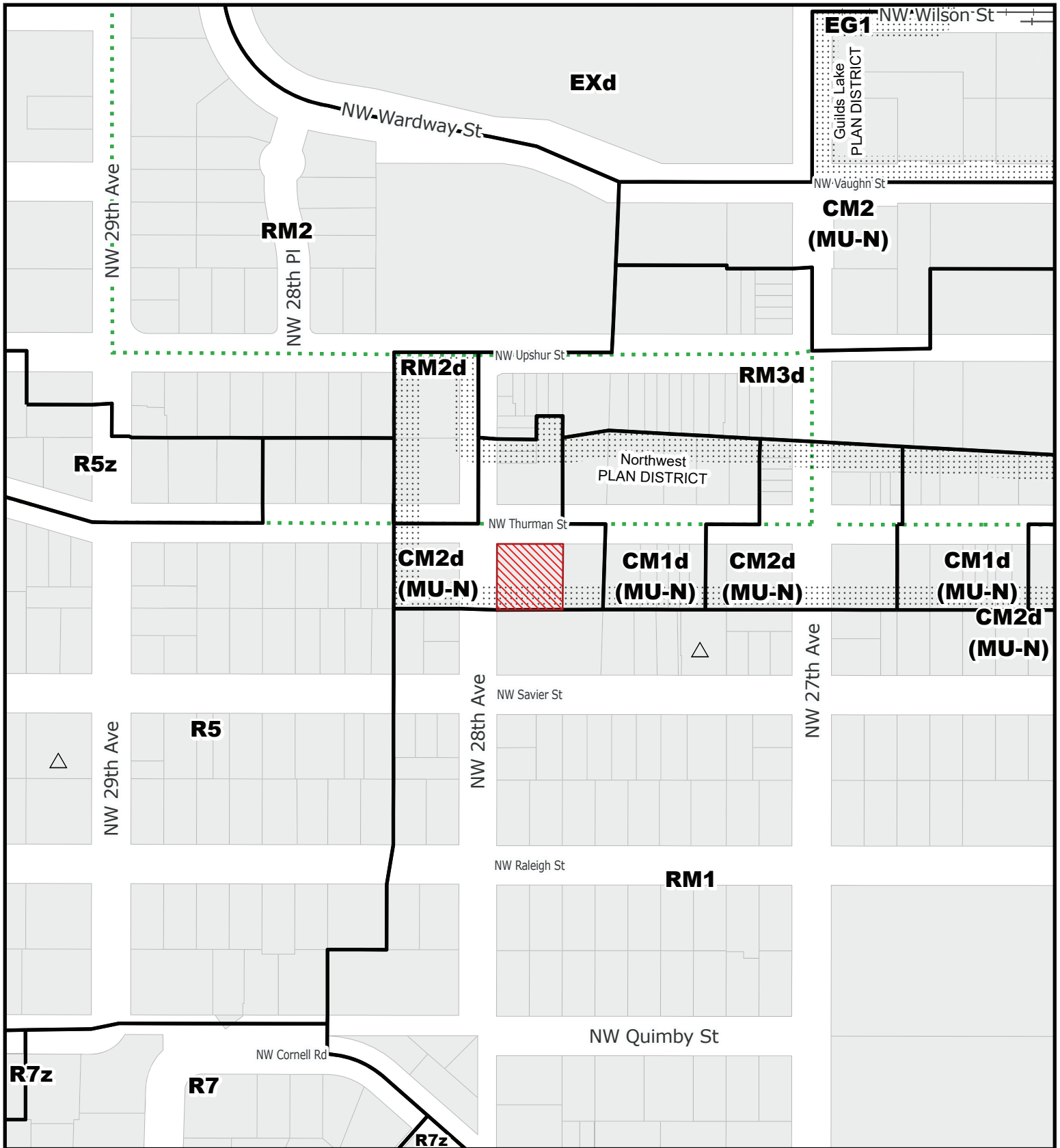
- A. Applicant submittal:
  - 1. Narrative
  - 2. Response to neighbors
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Floor Plans (attached)
  - 3. Elevation Drawings (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency responses:
  - 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

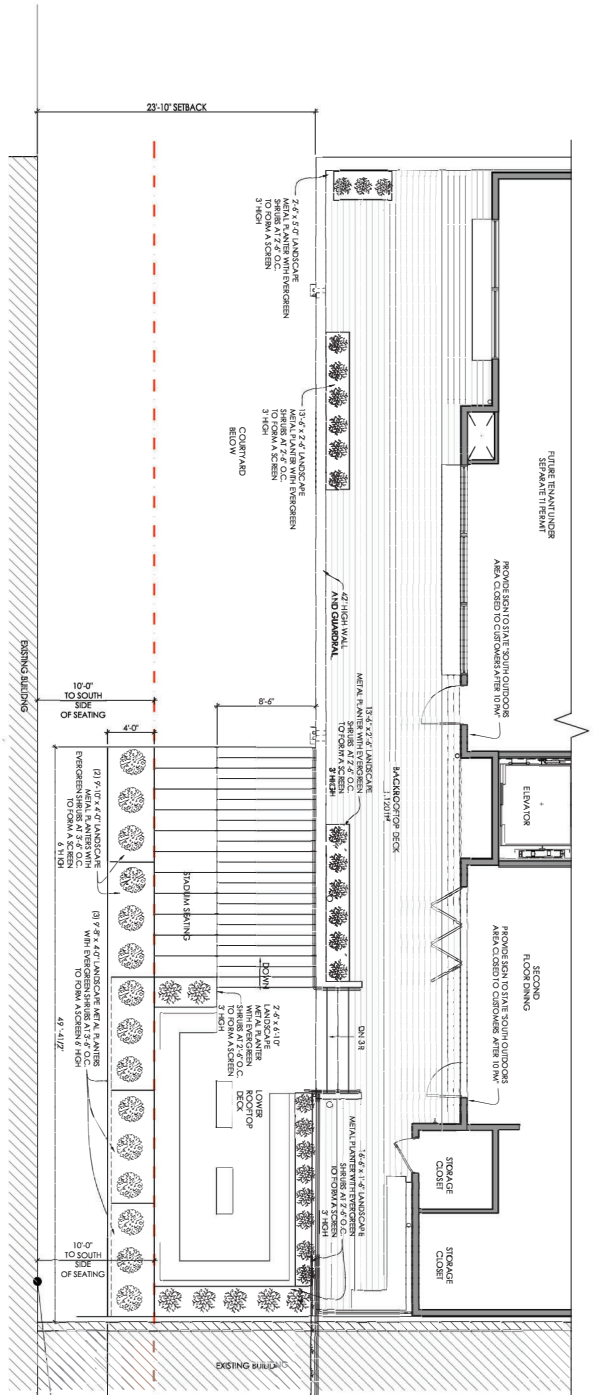
THIS SITE LIES WITHIN THE:  
NORTHWEST PLAN DISTRICT

-  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>





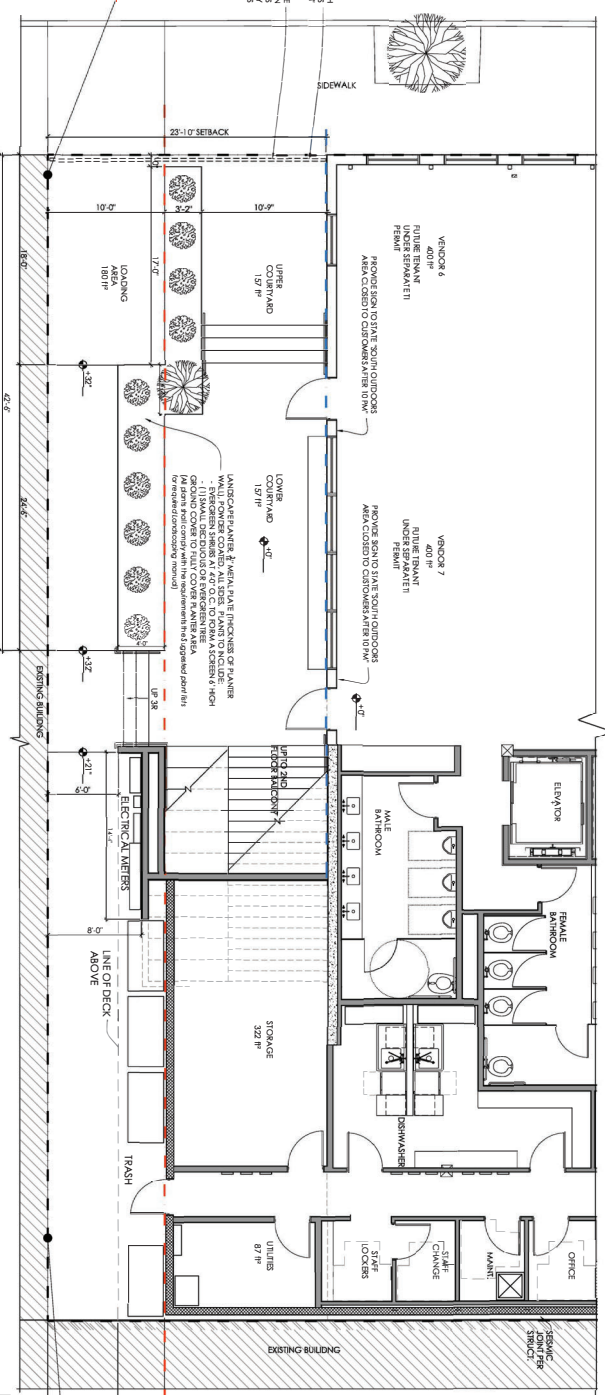


2 PARTIAL SECOND FLOOR PLAN  
3/1/6' = 1'-0"



\*Approved\*  
City of Portland  
Bureau of Development Services  
Planner  
**David Beasley**  
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.



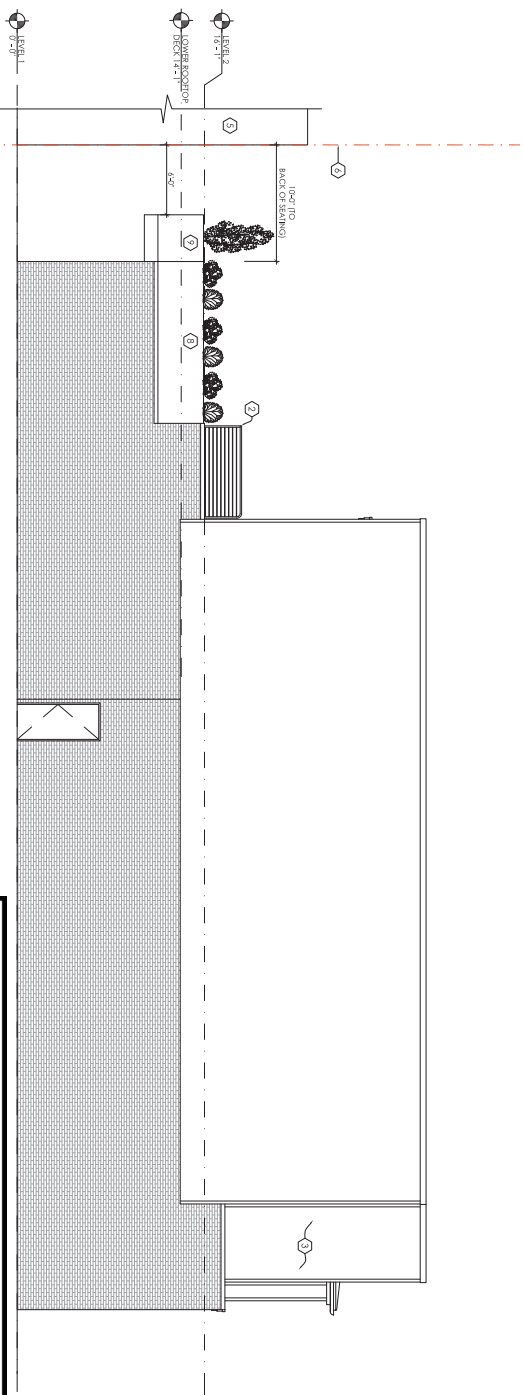
1 PARTIAL FIRST FLOOR PLAN  
3/1/6' = 1'-0"

GENERAL NOTE:

1. SIGN SIZE OUTDOOR AREA CLOSED TO CUSTOMERS AFTER 10:00PM
2. BUILDING WILL BE IN CONFORMANCE WITH THE OREGON INDOOR CLIMATE ACT AND FOR REASONED BUILDING SCIENCE RELIANT TO AIRQING AND ALL OTHERS. ALL REVISIONS MUST BE APPROVED BY THE CITY OF PORTLAND.
3. ALL EXTERIOR WORK, INCLUDING TYPICAL KEYWAY, APPROVED BY THE CITY OF PORTLAND.
4. OUTDOOR AREA MAXIMUM CANOPY SHALL BE 38% OREGON STRUCTURAL SPECIFIC TO CODE LABEL 1004.5 MAXIMUM FLOOR AREA ALLOWANCES PER SPECIFICATION.

LU 22-159396 AD  
Exh. C.2  
ZONING ADJUSTMENT 1  
BUILDING HEIGHT REDUCED TO 28'-0"  
A SECOND FLOOR BALCONY & SIGN

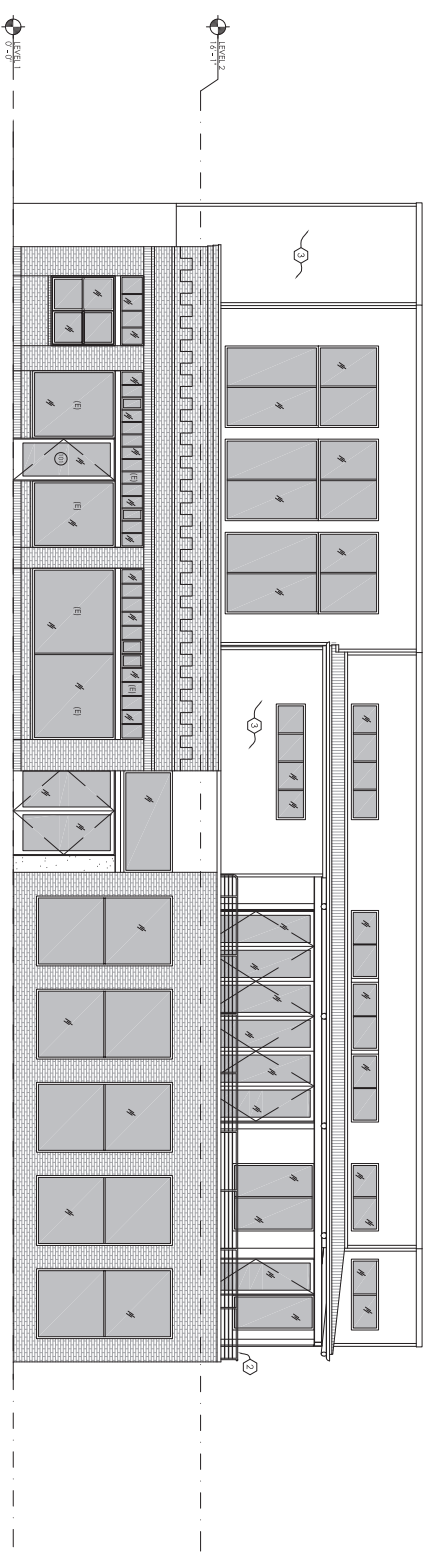
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A1.2  
Zoning Adjustment  
February 7, 2023  
Thurman Food Hall



1 EAST ELEVATION  
3/1/6" = 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  
3/1/6" = 1'-0"

**KEY NOTES**

- 1 EXISTING MASONRY WALL
- 2 BALCONY GUARDRAIL
- 3 NEW SECOND FLOOR WALLS BEYOND
- 4 NEW THIRD FLOOR BALCONY AND SKINNING TO SECOND FLOOR BALCONY AREA ABOVE
- 5 EXISTING TROUBLE CAR LIGHT BUILDING ADJACENT TO SOUTH SIDE OF THE SITE EXHIBIT 2
- 6 SOUTH PROFFERITY LINE
- 7 NEW LANDSCAPE PLANTER, # METAL PLANTER #1 - PLANTER WALL THICKNESS, POWDER COATED. ALL BE EVERGREEN SHRUBS AT 14" TO FORM A SCREEN 2' HIGH
- 8 NEW LANDSCAPE PLANTER, # METAL PLANTER #2 - PLANTER WALL THICKNESS, POWDER COATED. ALL BE EVERGREEN SHRUBS AT 14" TO FORM A SCREEN 2' HIGH
- 9 SECOND FLOOR LANDSCAPE PLANTER, LANDSCAPE PLANTER AT SECOND FLOOR BALCONY/ROOF TOP OBJECT TO BE # METAL PLANTER WALL THICKNESS, POWDER COATED. ALL BE EVERGREEN SHRUBS AT 24" O.C. TO FORM A SCREEN 2' HIGH
- 10 SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER PLATE PLANTER WALL THICKNESS, POWDER COATED. ALL BE EVERGREEN SHRUBS AT 24" O.C. TO FORM A SCREEN 6' HIGH
- 11 PLANTER AT SOUTH SIDE OF STAMPA SEATING (20'x12' THICKNESS), POWDER COATED. ALL BE PLANTS TO BE EVERGREEN SHRUBS AT 34" O.C. TO FORM A SCREEN 6' HIGH

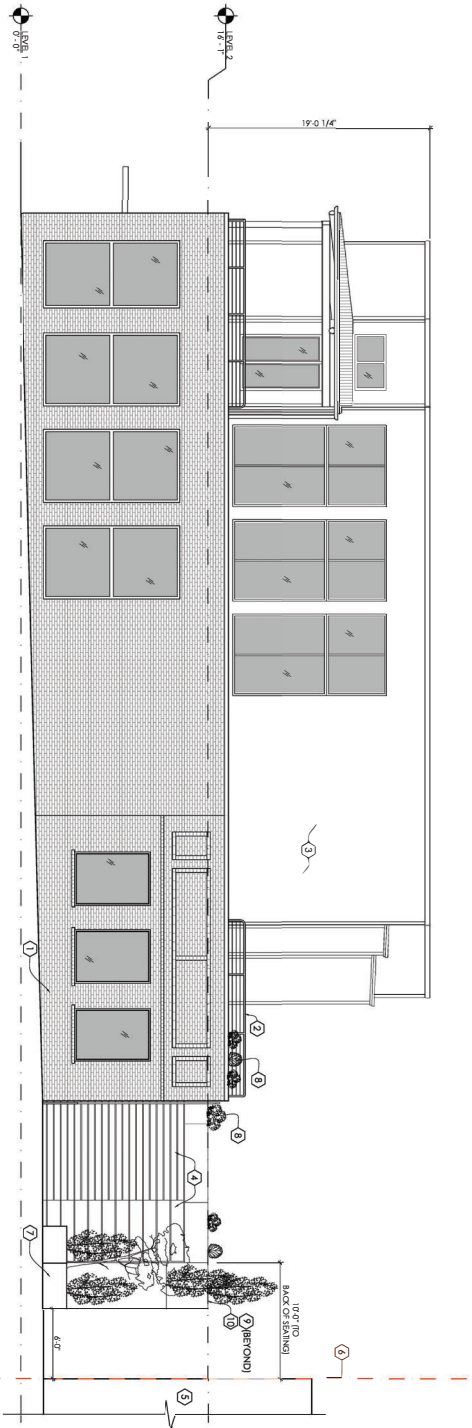
EXTERIOR  
ELEVATIONS

Zoning Adjustment  
February 7, 2023  
Thurston Food Hall  
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A3.1

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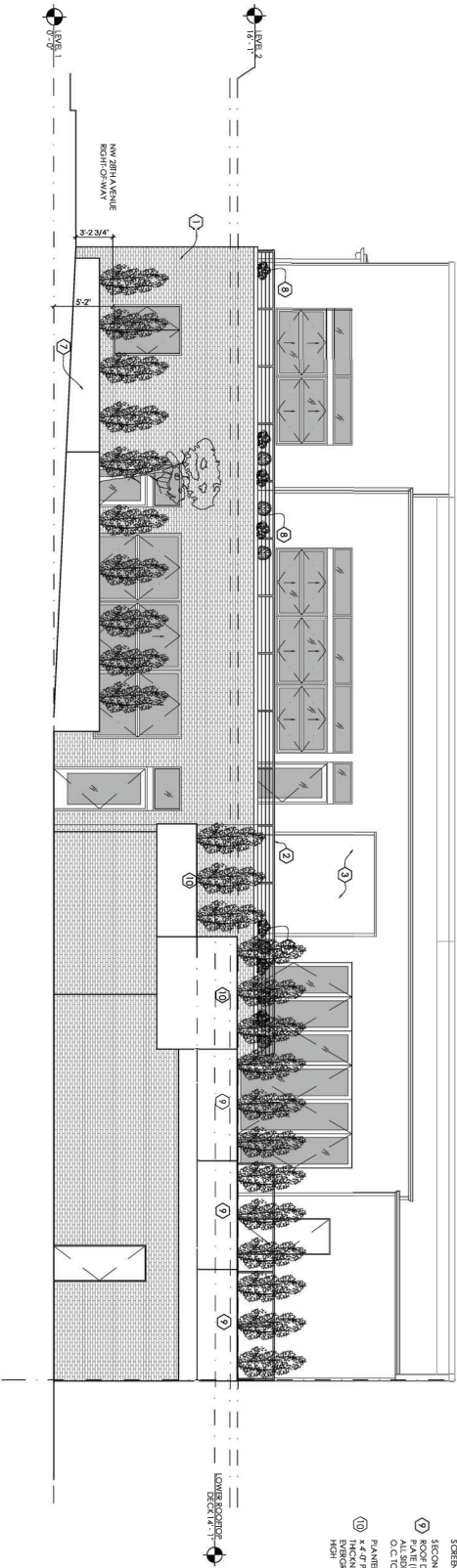
Exh. C.3  
LU 22-159396 AD



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 MASONRY WALL
- 2 BALCONY GUARDRAIL
- 3 NEW SECOND FLOOR WALLS BEYOND
- 4 NEW STAIRS AND BATHING TO SECOND FLOOR BALCONY AREA ABOVE
- 5 EXISTING BRICK CMU LOBBY BUILDING ADJACENT TO
- 6 SOUTH PROPERTY LINE
- 7 NEW LANDSCAPE PLANTER AT METAL RAILE @ - PLANTER WALL THICKNESS POWDER COATED ALL BRICKWORK SURFACES AT 4'-0" TO FORM A SCREEN 8' HIGH
- 8 SECOND FLOOR LANDSCAPE PLANTER, LANDSCAPE PLANTER AT SECOND FLOOR BALCONY/ROOF TOP PLANT TO BE EVERGREEN SHRUBS AT 2'-0" TO FORM A SCREEN 8' HIGH
- 9 SECOND FLOOR PLANTER AT SOUTH SIDE OF LOWER PLANTER (PLANTER WALL THICKNESS) POWDER COATED ALL BRICKWORK SURFACES AT 3'-6" TO FORM A SCREEN 6' HIGH
- 10 PLANTER AT SOUTH SIDE OF STAIRS BASKING (PLANTER WALL THICKNESS) POWDER COATED ALL BRICKWORK SURFACES AT 3'-6" TO FORM A SCREEN 6' HIGH

Exh. C.3  
 LU 22-159396 AD

EXTERIOR  
ELEVATIONS

Zoning Adjustment  
February 7, 2023  
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**A3.2**

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ARCHITECTURE & PLANNING  
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