

Council Findings, Conclusions and Decision for LU 23-111784 CU AD

**IN THE CITY COUNCIL OF THE
CITY OF
PORTLAND, OREGON**

**IN THE MATTER OF AN APPEAL
BY MUSICPORTLAND OF THE TYPE III CONDITIONAL USE AND ADJUSTMENT REVIEW
FOR A NEW MAJOR EVENT ENTERTAINMENT USE IN THE CENTRAL EASTSIDE**

LU 23-111784 CU AD

FINDINGS AND CONCLUSIONS

ADOPTED BY THE CITY COUNCIL ON OCTOBER 2, 2024

(DENIAL of appeal and APPROVAL of Conditional Use and Adjustment Review

**IN THE CITY COUNCIL OF THE
CITY OF
PORTLAND, OREGON**

**IN THE MATTER OF AN APPEAL BY MUSICPORTLAND OF THE TYPE III CONDITIONAL
USE FOR A NEW MAJOR EVENT ENTERTAINMENT USE AND ADJUSTMENT REVIEW IN
THE CENTRAL EASTSIDE
LU 23-111784 CU AD**

FINDINGS AND CONCLUSIONS

GENERAL INFORMATION

Applicant's Representative: Suzannah Stanley
Mackenzie
1515 SE Water Ave., Ste. 100
Portland OR 97214
(971) 346-3808
sstanley@mcknze.com

Applicant: Johnathan Malsin
Beam Development
1001 SE Water Ave., Ste. 400
Portland, OR 97214

Property Owner's Agent: Paul Gagliardi
PDC dba Prosper Portland
222 NW 5th Ave.
Portland, OR 97209

Property Owner: PDC dba Prosper Portland
220 NW 2nd Ave. #200
Portland, OR 97209

Site Address: west side of SE Water Ave. between SE Salmon St. and SE Main St.

Legal Description: LOT 1 TL 3602, PARTITION PLAT 2016-7; LOT 1 TL 4305, PARTITION PLAT 2016-8;
LOT 1 TL 1705, PARTITION PLAT 2016-9

Tax Account No.: R649670250, R649670290, R649670330

State ID No.: 1S1E03AD 03602, 1S1E03AD 04305, 1S1E03AD 01705

Quarter Section: 3130

Neighborhood: Buckman, contact John Rose or Josh Baker at buckmanlandusepdx@gmail.com

Business District: Central Eastside Industrial Council, contact ceic@ceic.cc.

District Coalition: Southeast Uplift, contact at operations@seuplift.org

Plan District: Central City (Central Eastside Subdistrict)

Zoning: IG1 – General Industrial 1

Case Type: CU AD – Conditional Use Review and Adjustment Review

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

Proposal: The applicant proposes to construct a new, 62,000-square-foot building on this site to be used as a concert venue with 1,280 seats and a maximum spectator capacity of 3,500. The applicant requests Conditional Use Review approval for a new Major Event Entertainment use in the IG1 zone. Type III Conditional Use Review is required by Zoning Code Sections 33.140.100.C and 33.815.040.A.1.

The applicant also requests approval of two Adjustments to Zoning Code requirements for this project:

- To reduce the minimum number of on-site, Standard A truck loading spaces from 2 to zero (Zoning Code Section 33.266.310.C.2.c). The applicant proposes to create 2 truck loading spaces which are primarily in the public right-of-way adjacent to the site. However, loading areas in the public right-of-way do not count toward the Zoning Code requirement.
- To reduce the amount of ecoroof area required from 14,617 square feet (total roof area minus allowable exemptions for roof slope greater than 25%, mechanical equipment, and the elevator overrun) to 4,670 square feet (Zoning Code Section 33.510.243.B.1).

Note: The applicant originally requested three Adjustments, including an Adjustment request to Zoning Code Section 33.266.200.B.1 to reduce the minimum number of on-site, short-term bike parking spaces from 32 to zero. The applicant had proposed to construct bike parking in the public right-of-way adjacent to the site as justification for this Adjustment. After discussion with the Portland Bureau of Transportation (PBOT), the applicant decided to withdraw this Adjustment request (Exhibit G-3). The applicant will pay into PBOT's bike parking fund when the building permit is issued, as required by Zoning Code Section 33.266.210.E.1.b when there is insufficient space on-site to provide the required short-term bike parking. PBOT would then construct and maintain bike parking in the public right-of-way.

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

- Zoning Code Section 33.815.215.A-D (Conditional Use Review); and
- Zoning Code Section 33.805.040.A-F (Adjustment Review).

The Portland Zoning Code is available online at <https://www.portland.gov/code/33>.

ANALYSIS

Site and Vicinity: The subject site consists of three undeveloped lots owned by Prosper Portland in the Central Eastside industrial area. The middle lot, which abuts SE Salmon Street to the north, SE Water Avenue to the east, and SE Main Street to the south, is the subject of this development proposal. No new development is proposed for the other two Prosper Portland lots to the north and south, and these lots would continue to be used as parking. The site is at the western edge of the industrial area, and properties to the north, east, and south of the Prosper Portland property are developed with commercial and industrial buildings. To the west of the subject site is the I-5 freeway right-of-way, and beyond that is the Eastbank Esplanade and the Willamette River. The on-ramp to the Hawthorne Bridge is just south of the site.

Zoning: The IG1 (General Industrial 1) zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. IG1 areas generally have smaller lots and a grid block pattern.

The Central City plan district implements the Central City Plan and other plans applicable to the Central City area. The district implements portions of these plans by adding code provisions which address special circumstances existing in the Central City area.

Land Use Review History: Below are prior land use review decisions that include the subject site. None of these land use review decisions have conditions of approval that affect the current proposal.

- LU 14-235124 LC. 2015 approval of a lot consolidation.
- LU 11-171075 AD. 2011 approval of Adjustments to landscaping and exterior activity requirements for a temporary (3-year) asphalt and concrete processing use. The approval has since expired.
- LU 00-00704 GW AD. 2001 approval of a Greenway Review and Adjustments to landscaping and nonconforming upgrades requirements for a parking lot.
- LU 00-00134 GW. 2000 approval of a Greenway Review for new fencing.
- CU 063-86. 1986 Conditional Use Review approval for fill associated with a Willamette River greenway trail.

Agency Review: A “Request for Response” was sent to City agencies May 29, 2024 (Exhibit D-1). The following City reviewers responded:

- The Bureau of Environmental Services (BES) evaluated the approval criterion related to sanitary sewer service and stormwater disposal. The response is referenced in the findings for Zoning Code Section 33.815.215.A.4, below. (Exhibit E-1)
- PBOT evaluated the approval criteria related to the transportation system. The responses are referenced in the findings for Zoning Code Section 33.815.215.A.1-3, below. (Exhibits E-2 and H)
- The Water Bureau responded with no concerns. (Exhibit E-3)

- The Fire Bureau responded with information on building permit requirements and no objections to approval. (Exhibit E-4)
- The Police Bureau responded that police can adequately serve the proposed development. (Exhibit E-5)
- The Site Development Review Section of the Bureau of Development Services (BDS) responded with information on building permit requirements and no objections to approval. (Exhibit E-6)
- The Life Safety Review Section of BDS responded with information on building permit requirements and no objections to approval. (Exhibit E-7)
- The Urban Forestry Division of the Parks Bureau responded with information on street tree requirements and no objections to the land use review proposal. (Exhibit E-8)

Neighborhood Review: Signs notifying neighbors of the public hearing were posted on June 6, 2024 (Exhibit D-3) and a “Notice of Public Hearing” was mailed to neighbors on June 20, 2024 (Exhibits D-4 and D-5).

The application generated significant interest from members of the public and community stakeholders. Like many projects, the application attracted proponents and opponents. The parties to this case submitted a substantial amount of written evidence and argument into the record. Responses to issues directly related to the relevant Conditional Use approval criteria (PCC 33.815.215.A-D) and Adjustment approval criteria (PCC 33.805.040.A-F) submitted by the public are addressed in the Council findings below.

Procedural History: The application for this land use review was submitted on December 22, 2023, and was determined to be complete on May 23, 2024. The Staff Report and Recommendation to the Hearings Officer was issued prior to the hearing before the Hearings Officer. The hearing before the Hearings Officer was held on July 10, 2024. The Hearings Officer held the record open until July 17, 2024, for new evidence, July 24, 2024 for rebuttal evidence, and July 31, 2024 for final legal argument. The record of the hearing was therefore held open consistent with the requirements of ORS 197.797(6). On August 14, 2024, the Hearings Officer, having reviewed and considered all the evidence and argument in the record, issued a decision approving the application with conditions. Music Portland subsequently filed a timely appeal of the Hearings Officer’s decision to the City Council on August 27, 2024. The City Council held an on the record hearing on the appeal on September 19, 2024, and unanimously voted to tentatively deny the appeal and uphold the Hearings Officer’s Decision with conditions of approval. At the close of the City Council hearing on September 19, 2024, the City Council set a date for adoption of findings and a final vote. At the final proceeding on **October 2, 2024**, the City Council adopted the findings contained in this Decision and the Hearings Officer’s final conditions of approval.

Because the appeal to the City Council was an on-the-record proceeding, evidentiary submittals were limited to the evidence that was in the record on the date the Hearings Officer closed the public record; in this case that date is July 31, 2024. No new evidence was permitted during the City Council proceedings. The City Attorney and City Planner monitored the evidence submitted into the record after July 31, 2024, and during the City Council proceedings advised the City Council on a list of submittals that they believed were not previously submitted into the record before the Hearings Officer. The following is a list of new evidence that was submitted to the City Council at the September 19, 2024 appeal hearing:

- The decision adopted by Prosper Portland at their September 18, 2024, meeting, and any information and discussions arising from the Prosper Portland hearing
- Discussions of prior attempts to build mid-size concert venues in the city (though discussion of a current proposal for another mid-size venue was in the record).
- Comments related to impacts from a recent Live Nation-sponsored event at Providence Park
- Information related to pending federal litigation and enforcement against Live Nation that were beyond the close of the record
- Comments regarding allegations of bullying by the applicant’s team and use of the word “firebombing” by opponents
- Comments related to experiences at Live Nation concerts in Bend, Oregon, and in Austin, Texas

No party objected to the exclusion of this new evidence and the City Council rejected this evidence from consideration. To the extent any of the many submittals after July 31, 2024, contain new evidence, such evidence is rejected and not included in the record and is not relied on by the City Council this decision.

ZONING CODE APPROVAL CRITERIA

Conditional Use Review

33.815.215 Major Event Entertainment

These approval criteria ensure that the potentially large size and impacts of these uses are not harmful to surrounding areas and that transportation services are or will be sufficient to serve the use. The approval criteria are:

A. Public services.

1. The proposed use is in conformance with the street designations shown in the Transportation Element of the Comprehensive Plan;

Findings: As a preliminary matter, as described in the purpose statement, Council generally interprets the Major Event Entertainment Conditional Use Review criteria to consider the impact of the proposed use on the surrounding area. For the purposes of this criterion, surrounding area is not defined but Council generally interprets the term to include the neighborhood. More explicitly, Council rejects the interpretation that suggests the purpose statement require Council to consider whether a particular tenant (or user) would have an impact on the city as a whole.

Compliance with this standard is demonstrated by substantial expert evidence in the record. PBOT provided a detailed written response to this criterion [Exhibit E-2; see also, Exhibit H-16, at 2]. At this location, the City’s Transportation System Plan (TSP) classifies the following abutting streets as follows:

<i>Street Name</i>	<i>Traffic</i>	<i>Transit</i>	<i>Bicycle</i>	<i>Pedestrian</i>	<i>Freight</i>	<i>Emergency Response</i>	<i>Street Design</i>
<i>SE Salmon St</i>	<i>Local Service</i>	<i>Local Service</i>	<i>Major City Bikeway</i>	<i>Local Service in a Ped. Dist.</i>	<i>Freight District</i>	<i>Minor Response</i>	<i>Local Street</i>
<i>SE Water Ave</i>	<i>Traffic Access St</i>	<i>Local Service</i>	<i>Major City Bikeway</i>	<i>Major City Walkway in a Ped. Dist.</i>	<i>Priorit y Truck Street</i>	<i>Major Response</i>	<i>Neighborhood Main Street</i>

<i>SE Main St</i>	<i>Local Service</i>	<i>Local Service</i>	<i>City Bikeway</i>	<i>Local Service in a Ped. Dist.</i>	<i>Freight District</i>	<i>Minor Response</i>	<i>Local Street</i>
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See Exhibit E-2. As expressly determined by PBOT and as adopted by the Staff Report, PBOT found that the proposed Conditional Use is consistent with the surrounding street designations of the Transportation Element of the Comprehensive Plan and TSP classifications *Id.*; see also, Exhibit H-5, at 4.

Further, the Applicant's Traffic Impact Study ("TIS") [Exhibit A-10], contains a detailed discussion of how the proposed use is appropriate for the site's traffic street designations identified in Table 1 of the TIS [Exhibit A-10, at 57]. As identified above, the design classifications (SE Salmon Street and SE Main Street are Local Streets, and SE Water Avenue is a Neighborhood Main Street) are also suited for the proposed land use [*Id.*; see also, Exhibit A-12, at 5]. The intended land use of these designations is:

- SE Salmon Street and SE Main Street (Local Streets): Local Streets are multimodal and important for local circulation of trucks in commercial and industrial areas.
- SE Water Avenue (Neighborhood Main Street): These are segments of Neighborhood Corridors located within the Central City and areas of intensive commercial activity. They are intended to serve a mix of uses which are oriented toward the street.

In furtherance of these design classifications, applicant will improve the street frontages of the proposed venue to feature wider sidewalks corridors on SE Main Street and SE Salmon Street, consistent with their local street designations in a Pedestrian District and along SE Water Avenue, consistent with its Major City Walkway and Neighborhood Main Street designations. Such improvements will be reviewed through a Public Works Permit [Exhibit H-5, at 8].

Therefore, Council finds criterion A.1 is met.

2. If the proposed use will be located in an industrial zone, it will not have a significant adverse effect on truck and freight movement;

Findings: This standard is supported by substantial expert evidence in the record. As addressed in the applicant's TIS, the project will not have a significant adverse effect on truck and freight movement and will protect the important freight connection between the Central Eastside and nearby regional truck routes along Interstate 5 and OR 99E. Exhibit A-10, at 57. Adjacent and nearby streets will continue to fully accommodate truck movements (and all modes of transportation). The loading dock and staging area for the proposed venue will be located away from the SE Water Avenue Priority Truck Street to allow efficient passage for large vehicles along SE Water Avenue. Exhibit A-10, at 57; Exhibit A-10, Section 17 – Traffic Control Plan. Loading-related truck movements will ultimately be addressed pursuant to an angle loading permit or other permit approved by PBOT, and the TIS contains a traffic control plan demonstrating that movements using Water Avenue are performed efficiently and safely and that it is feasible for loading to occur without significant adverse effect on truck and freight movement. SE Main Street and SE Salmon Street are not used for truck and freight movement due to vehicular traffic terminating to the west of the site, and the lots along these street sections remaining vacant.

Further, PBOT reviewed the proposal, concurred with the TIS, and submitted the following response to criterion A.2:

“The proposed use is located within the Central Eastside Industrial Sanctuary. The applicant’s TIS [Exhibit A-10] provided an analysis of existing, projected no-build, and post-development multi-modal transportation patterns. Conclusions indicate that since all of the development is located west of SE Water Ave, with the abutting east-west streets of SE Salmon and SE Main terminate into the Eastbank Esplanade, the proposed development will not conflict with existing truck and freight movement throughout the district. This criterion is met.”

See Exhibit E-2; Exhibit H-5, at 5; Exhibit H-16, at 2. Based on the above finding from PBOT and substantial expert evidence in the record, Council finds criterion A.2 is met.

3. Transportation system:

- a. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development;

Findings: Council finds that this criterion requires considering a variety of factors but that the facts are balanced. The applicant’s traffic engineer has evaluated each of the evaluation factors to determine that “with the recommended improvements, the transportation system will be capable of safely supporting the proposed venue, in addition to accommodating existing uses.” Exhibit A-10, at 58-59. PBOT Traffic Engineers have also reviewed applicant’s TIS (Exhibit A-10) and approved the methodologies, analyses, assumptions, findings, and conclusions therein, and confirmed that the evaluation factors under this standard have been addressed and satisfied. See Exhibit E-2. Council agrees with the findings in the Hearings Officer’s decision, the Staff Report [Exhibit H-5, at 5-8], PBOT’s memorandum [Exhibit H-16, at 2-5], which determined that the transportation system is capable of supporting the proposed use in addition to existing uses, and are expressly adopted and incorporated herein.

Council finds that the application satisfies this criterion based on substantial expert evidence in the record. Council addresses each evaluation factor and responds to oppositional testimony raised during the course of the proceedings, as follows:

- Safety: For vehicle safety, the applicant’s traffic engineer utilized Oregon Department of Transportation’s (ODOT) Crash Data System over a five-year period from January 2016 to December 2020. Exhibit A-10. There were 66 crashes recorded at the study intersections over the five-year period (see Table 4), with the most crashes occurring at the SE Stark St/SE Grand Ave and SE Stark St/SE MLK Jr Blvd intersections. Exhibit A-10, at 19-20. Seven involved people walking or biking, including one at the SE Water Ave/SE Salmon St intersection. Exhibit A-10, at 8. The most common collision types at the study intersections were angle, turning and rear-end crashes, many of which show “no yield” or “disregarded traffic signal” as the cited cause. Exhibit A-10, at 8. In addition, the Union Pacific study rail crossings along the segment between SE Stark Street and SE Clay Street also had three reported incidents in the past five years, two in 2020 and one in 2022, two at the SE Salmon Street and one at the SE Clay Street crossings (see Table 5). Exhibit A-10, at 9-10. Each of these incidents included a train striking a pedestrian, with two resulting in a fatality and one resulting in an injury.

When an intersection’s crash rate (crashes per million entering vehicles) is greater than the critical crash rate (an intersection’s crash history compared to similar intersections, adjusting for volume), it’s an indication that a design deficiency may exist and further study is warranted. As shown in Table 6, one of the identified intersections is located at the intersection of SE Water Ave/SE Salmon St – where the proposed use is located. Exhibit A-10, at 11. This is a 4-leg intersection with stop control of the side street approaches. Of the six recorded crashes over the 5-year period, four involved people running the stop sign (one being a bike running the stop sign), and two involved drivers running into a stopped vehicle (one being a parked car). Exhibit A-10, at 10-11. Of the four collisions where a driver or bike ran the stop sign, the direction of travel was split between the east and west approaches of SE Salmon Street and included either an inattentive driver “failing to yield” or “passing the stop sign” as the cause, rather than an intersection design flaw. Exhibit A-10, at 10-11. As further explained in DKS’s Technical Memorandum, the proposed venue will provide frontage improvements adjacent to these intersections which can improve driver awareness when approaching the SE Water Avenue intersection along SE Salmon Street, but overall, these collisions were caused by inattentive drivers and the proposed venue is not anticipated to exacerbate it. Exhibit H-15.

Moreover, the predicted accident probability based on current safety protection for each at-grade study crossing is summarized in the table below for the 2025 No-Build and 2025 Build scenarios. As shown in the table, the accident probability analysis found the study crossings to be well below 0.50 accidents per year with existing crossing safety protection, and the increased traffic in the 2025 Build scenario would not be expected to result in any material change to the frequency of accidents compared to the 2025 No-build scenario. See Exhibit H-52, at 4-6.

Table 1: At-Grade Study Rail Crossing Safety Assessment

STUDY RAIL CROSSING*	PREDICTED ACCIDENTS (ACCIDENTS/YEAR)		
	FUTURE NO BUILD 2025	FUTURE BUILD 2025	CHANGE (2025 BUILD- 2025 NO BUILD)
SE STARK STREET (754542S)	0.006	0.007	0.001
SE YAMHILL STREET (754550J)	0.004	0.004	0.000
SE SALMON STREET (754552X)	0.207	0.208	0.001
SE MAIN ST (754553E)	0.003	0.004	0.001
SE CLAY STREET (754559V)	0.107	0.107	0.000

Furthermore, the proposal is designed to ensure safe conditions for all modes and PBOT standards are designed to provide safe conditions for all modes, especially pedestrian and cyclists. The applicant will be required to dedicate property along all three frontages and reconstruct the abutting pedestrian corridor to City standards. Exhibit H-16, at 3. The TIS also recommended curb extensions at both the SE Salmon and SE Main Street intersections. The curb extension into SE Main Street (see Figure 10 of Exhibit A-10) would shift the travelway slightly south for drivers heading westbound away from SE Water Avenue and would provide space for a tour bus to be staged on-street during

events to the east of the loading dock for the proposed venue. Exhibit A-10, at 36-37. The curb extension into SE Salmon is adjacent to the proposed bike parking on SE Salmon Street and is recommended to support the proposed bike parking. *Id.*, at 37 and 39. As noted by PBOT, there is also a planned two-way cycle track along the site's SE Water frontage in the future. Exhibit H-16, at 3. Additional safety improvements such as crosswalk stripping, signage, lighting, etc. will be determined during the review of the Public Works permitting process. Exhibit H-16, at 3.

Some opponents including the appellant assert that the site may not be adequately lit and that should be accounted under the "safety" factor. Simply put, there is sufficient street lighting in the area surrounding the site and along the streets which provide pedestrian access to the site, as demonstrated by the photographs of the area taken on 7/23/24 at approximately 10pm. See Exhibits H-49, H-50, H-51. Further, development of the proposed venue will result in new street lighting improvements to city standards immediately adjacent to the site, further ensuring an adequately lit and safe experience for venue patrons.

On the issue of traffic safety, the appellant submitted written testimony (Exhibit H-35 and appellant's memorandum to Council dated September 18, 2024) and testified at the hearing before Council alleging traffic impact-related arguments that the proposed use would generate: conflicts with trains as it relates to pedestrian access and rail crossings; increased darkness and poor visibility for pedestrians at late hours; increased alcohol use; and increased accidents. The appellant also questioned the traffic evidence in the record. Council finds that these arguments should be denied for the reasons below.

First, as explained in applicant's Exhibit H-52, the standard protective devices at rail crossings in Oregon are installed and maintained by the railroad (not the applicant or the City) per OAR 741-110-0020 to 0090 and 741-115-0010 to 0080. Exhibit H-52, at 4. The crossing characteristics near the proposed venue are documented in the TIS at SE Stark Street, SE Yamhill Street, SE Salmon Street, SE Main Street and SE Clay Street (see page 6 of the TIS), and include advance warning pavement markings and signage, and post mounted flashing light signals, automatic gates and supplemental signage indicating the number of tracks at the crossing, with the crossing at SE Clay Street also including flashing-light signals on cantilevered supports. Exhibit H-52, at 4. These grade crossings also include nearby illumination to provide light during hours of darkness. Exhibit H-52, at 4. Exhibits H-49, H-50, H-51 show that visibility at night in the surrounding area and at the site are not impaired and include nearby illumination. Exhibit H-52 (at p. 2) further demonstrates that rail crossings do not pose operational safety concerns.

Second, regarding alcohol consumption, the approval standards do not require projecting and accounting for impairment of individual users of the transportation system. And while Council finds that the proposed operator is not relevant to the criteria, it is worth noting that evidence in the record demonstrates the proposed venue operator is committed to responsible alcohol service as evident in the record, and has been a member of the TEAM Coalition (Techniques for Effective Alcohol Management), which is a non-profit organization that trains and certifies concessions, operations, and security staff on safe and responsible alcohol service. See Exhibit H-52, at 12. The proposed venue will also comply with State law, which maintains its own robust alcohol regulations. *Id.*

Third, regarding alleged traffic safety concerns and increased accidents, such contentions are unfounded for the reasons already addressed above. Specifically, as noted in Table 1 above, the proposed use is not expected to result in any material change to the frequency of accidents. To the extent that the project opponent alleges that the TIS failed to consider employee trip generation, that contention is untrue. As expressly noted in Applicant's Exhibit H-52 (at p. 6), employee trip generation information was considered in the analyses and summarized in the TIS (Exhibit A-10, at 21-24)

Further, traffic-related evidence (Exhibit H-41) was submitted in the record on behalf of appellant in response to the applicant's TIS (Exhibit A-10). Council finds these comments inconsistent with extensive analysis provided in the TIS and additional evidence in the record. The traffic comments simply agree with appellant without providing any empirical traffic data and analysis and further argues that the applicant has not provided adequate traffic analysis to fully determine impacts and mitigation. However, as identified above and as reflected in the record, there is substantial evidence in the record demonstrating the methodologies, analyses, assumptions, findings, and conclusions with regard to traffic safety, intersection capacity, Level of Service (LOS), connectivity between travel modes, trip generation including employee trip generation, multi-modal safety, potential impacts, mitigation measures, and proposed public improvements. See Exhibit A-10; Exhibit H-15; Exhibit H-16; see also, Exhibit H-52, at 4-6. Thus, Council rejects allegations including safety-related contentions in Exhibit H-41 and evidentiary-related contentions in the appellant's memorandum to Council dated September 18, 2024.

Finally, the appellant contended that no venue can be safely located in proximity to a rail line. Exhibit H-35. However, there is evidence in the record demonstrating many venues across the county are located in proximity to a rail line. See Exhibit H-52, at 7-11. Specific to the subject site, the traffic engineer analyzed the increase in pedestrian crossings for safety impacts and found that the proposed use would not result in any material change, as discussed above. See Exhibit H-52, at 4-6.

Based on substantial expert evidence in the record, Council finds that this evaluation factor is satisfied.

- Street Capacity/Level of Service (LOS): To determine the pre-build and post-build intersection capacity and LOS, turning movement data was obtained for the study intersections during the weekday and weekend pre-event period (6 p.m. to 8 p.m.) and post-event period (10:00 p.m. to 12:00 a.m.). Exhibit A-10, 12. Daily motor vehicle count data was also collected adjacent to the proposed venue along SE Water Avenue, south of SE Salmon Street and north of SE Main Street. Exhibit A-10, 12. The count data indicates that approximately 4,900 vehicles pass the proposed venue along SE Water Avenue during an average weekday. Exhibit A-10, 12. Of these vehicles, 1,300 travel northbound and 3,600 travel southbound. The highest number of trips along SE Water Avenue occurs from 5:00 – 6:00 p.m., with 488 vehicles passing the proposed venue (157 northbound and 331 southbound). Exhibit A-10, 12. During the pre-event and post-event peak hours, 165 and 35 vehicles pass the proposed venue along SE Water Avenue, respectively. Exhibit A-10, 12. For City study intersections along SE Water Avenue not designated on the Metro Regional Transportation Plan Arterial and Thoroughway Network, the City of Portland standards require a LOS "D" or better to be maintained for signalized intersections and a LOS "E" or

better for intersections with stop control. Exhibit A-10, 12-13. As shown in Table 7 of the TIS, all study intersections meet the current mobility targets during the weekday and weekend pre-event and post event peak hours. Exhibit A-10, 14-15. All intersections along SE Water Avenue operate with a LOS B or better, while the signalized intersections at SE Stark Street/SE Grand Avenue and SE Stark Street/SE Martin Luther King Jr Boulevard operate with a LOS C or better, well below the current mobility targets. Exhibit A-10, 14.

For post-build expectations, Table 17 of the TIS shows the future 2025 intersection operations at study intersections, with the proposed venue. Exhibit A-10, 47-48. As shown, all study intersections are expected to continue to meet mobility targets despite the added traffic growth from the proposed venue through 2025, despite an expected increase up to 14 percent during the pre-event peak hour and up to 41 percent during the post-event peak hour. Exhibit A-10, 47. All intersections along SE Water Avenue are expected operate with a LOS C or better, while the signalized intersections at SE Stark Street/SE Grand Avenue and SE Stark Street/SE Martin Luther King Jr Boulevard also operate with a LOS C or better. Exhibit A-10, 47. Therefore, the system evaluation found no street capacity or level of service impacts with the proposed venue, as shown in Table 17, 18 and 19. Exhibit A-10, at 58.

Council finds that this evaluation factor is satisfied.

- Pedestrian, Cycling, and Transit Availability: The proposed venue is very accessible to pedestrians and bicyclists and is well-served by a network of continuous sidewalks and bike facilities on the surrounding streets between nearby existing private vehicle parking, bike parking, ride hailing or transit stops. Exhibit A-10, at 11. The proposed venue is also adjacent to existing bikeways along the Eastbank Esplanade, SE Water Avenue and SE Salmon Street. Exhibit A-10, at 7. Current transit service near the proposed venue is primarily accessed via stops located on SE Grand Avenue and SE Martin Luther King Jr Boulevard between SE Salmon Street and SE Taylor Street, on the SE Madison Street and SE Hawthorne Boulevard viaducts (accessed via stairs from SE Water Avenue), on the SE Morrison Street and SE Belmont Street viaducts (accessed via stairs from SE Water Avenue), along SW 1st Avenue in downtown Portland across the Morrison Bridge, and near SE Tilikum Way. Exhibit A-10, at 7-8, 58. Event attendees and employees who utilize transit for travel to and from the venue would primarily utilize SE Water Avenue, SE Salmon Street and the Eastbank Esplanade to access transit services before and after events. Exhibit A-10, at 58. Current schedules indicate that the TriMet Routes 6, 14 and 15 and MAX light-rail service near the proposed venue extends beyond the conclusion of a typical event (i.e., expected to be 11:00 p.m. or later for most events). Exhibit A-10, at 58.

Council finds that this evaluation factor is satisfied.

- Connectivity: The subject site located at the intersection of three ROWs meeting the City's Street spacing standards noted in 17.88.040. Therefore, additional connections are not required. Council finds that this evaluation factor is satisfied.
- Access Restrictions: Of the three frontages, SE Main Street is the lowest classified street, therefore the appropriate frontage to which provide vehicular access. As discussed further below, the applicant proposes to provide loading

from SE Main Street, reviewed through a permit as determined by PBOT Council finds that this evaluation factor is satisfied.

- On-Street Parking Impacts: Parking surveys were conducted between 6:00 p.m. and 11:00 p.m. on a weekday (Thursday, July 27, 2023) and a weekend (Saturday, August 5, 2023) within a 0.25 mile or about a 10-minute walk of the proposed venue, which is generally considered a comfortable walking distance. Exhibit A-10, at 15. This roughly includes the blocks bounded by the Willamette River to the west, SE Morrison Street to the north, SE Grand Avenue to the east and SE Clay Street to the south. Exhibit A-10, at 15. On-street parking in the surveyed area is either permit parking (i.e., Zone G or Zone N permit) or available via a 2-hour time limit for non-permit holders and enforced on weekdays only from 7 a.m. to 6 p.m. in non-metered spots and 8 a.m. to 6 p.m. in metered spots. Exhibit A-10, at 15. As shown in Table 14 of the TIS, about 1,318 parking spots were identified within the surveyed area, including 1,084 on-street parking stalls and 234 parking spots in public off-street lots (see Figure 16 and Figure 17). Exhibit A-10, at 15. A maximum estimated parking occupancy for the entire surveyed area of 32 percent was observed during the weekday and 17 percent was observed during the weekend, both occurring in the 5:00 p.m. and 7:00 p.m. survey period. Exhibit A-10, at 15.

Table 15 of the TIS shows that a sold-out concert is estimated to generate demand for 915 parking spaces during both a weekday and weekend event, with attendee and employee arrivals occurring between 6:00 p.m. and 9:00 p.m. and most assumed to use parking locations within 0.25 miles of the proposed venue (i.e., 763 of the 915 parking spaces). Exhibit A-10, at 42-43. The total occupied parking spaces with the proposed venue is estimated to be highest between 8:00 p.m. and 9:00 p.m. during both a weekday and weekend event when the attendee and employee parking demand is at its highest (i.e., demand for 763 spaces within 0.25 miles of the proposed venue). Exhibit A-10, at 42-43. The parking occupancy rate during this period is estimated to reach 82 percent during a weekday event (i.e., 1,074 parking spaces) and 71 percent during a weekend event (i.e., 930 parking spaces) for the 1,318 parking spaces within 0.25 miles of the proposed venue. The estimated parking occupancy rates between 6:00 and 8:00 p.m. are under 80 percent for a weekday event and under 70 percent for a weekend event. Exhibit A-10, at 42-43.

Table 16 of the TIS shows that a weekday special event is estimated to generate demand for 131 parking spaces, with attendee and employee arrivals occurring between 12:00 p.m. and 3:00 p.m. and all are assumed to use parking locations within 0.25 miles of the proposed venue. Exhibit A-10, at 44. The total occupied parking spaces with the proposed venue is estimated to be highest between 1:00 p.m. and 2:00 p.m., when 1,135 parking spaces are utilized. Exhibit A-10, at 44. This represents an 86 percent occupancy rate for the 1,318 parking spaces within 0.25 miles of the proposed venue. Exhibit A-10, at 44. The estimated parking occupancy rates between 12:00 and 1:00 p.m. and are 2:00 and 3:00 p.m. are at or below 84 percent. Exhibit A-10, at 44. PBOT regularly evaluates the on-street parking demand and has the ability to adjust controlling factors in accordance with existing practices and policies. See Exhibit H-16, at 4.

Based on the above, Council finds that this evaluation factor is met.

- Neighborhood Impacts: The purpose of the IG zone is to protect the Industrial Sanctuary area designated by the Comprehensive Plan. The Industrial Sanctuary zones identify areas where industrial uses may locate, while other

uses – such as the current proposal – are restricted to prevent potential conflicts and to preserve land for industry. Here, the proposed venue is located on the edge of the Central Eastside subdistrict, and the majority of proposed operations would occur when many industrial and allowed uses are closed, avoiding the impact to the industrial operations in the district. Council finds that this evaluation factor is satisfied.

Accordingly, based on substantial and unrefuted expert evidence in the record, Council finds criterion A.3.a is met with conditions recommended by PBOT.

- b. Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements.
- c. Transportation improvements adjacent to the development and in the vicinity needed to support the development are available or will be made available when the development is complete or, if the development is phased, will be available as each phase of the development is completed.

Findings: The applicant's TIS found no off-site transportation impacts resulting from the proposed venue that will not be mitigated, based on the analysis comparison of no-build versus build. See Exhibit A-10, at 59. As found in the TIS, the only impacts of the proposed use are on-site transportation impacts resulting from new site generated trips, which will be mitigated with proposed improvements. Exhibit A-10, at 59. Transportation impacts resulting from new site generated trips will be mitigated with improved street frontages to feature wider sidewalks, to include 12-foot sidewalk corridors on SE Main Street and SE Salmon Street, consistent with their local street designations in a Pedestrian District and a 15-foot sidewalk corridor along SE Water Avenue, consistent with its Major City Walkway and Neighborhood Main Street designations. *Id.*, at 58.

In addition, applicant submitted a transportation and parking demand management plan (TDM) (Exhibit A-10, Section 1) for the proposed venue to reduce the impact of events on the transportation system and provide employees and attendees with information and incentives to use transportation methods other than single occupancy vehicles. The plan provides strategies to increase the transit, walking, and biking travel options, along with traffic management techniques to ensure that people who travel via motor vehicle effectively navigate to their parking, drop-off, or pick-up location with fewer delays than what would occur under an unmanaged setting. *Id.* PBOT Parking Control and Traffic Engineering will also evaluate ride hailing locations as deemed appropriate to serve the use and reserve the right to modify and relocate such service locations as the project comes online. Exhibit E-2.

Further, as described in applicant's Technical Memorandum, given the planned future two-way cycle track on the west side of SE Water Avenue adjacent to the proposed venue, no curb extensions are required into SE Water Avenue. Exhibit H-15, at 2. To support this future two-way cycle track improvement, the existing curb extension into SE Water Avenue at the northwest corner of the SE Main Street intersection is proposed to be removed as part of the recommended curb extension improvement noted above into SE Main Street at the same corner. *Id.* These proposed improvements are also recommended to include the associated crosswalk striping and signage as required. The final design of the curb

extension and overall crossing/street layout will be determined during the public works permitting process. *Id.*

The applicant also identified several Capital Improvement Projects (CIP) in and around the area that will also help mitigate anticipated impacts and strengthen the City's mode-split goals. See Exhibit A-10, at 55-56 and 59. Some project opponents argued the insufficiency of such CIP or the resulting transportation system. However, substantially more trips to the Oregon Museum of Science and Industry (OMSI) are adequately accommodated on a daily basis than that would be created by the venue [Exhibit H-52, at 2]. OMSI is similarly located west of the rail line in the Central Eastside. As reflected in Exhibit H-52 in the record, throughout OMSI's history at 1945 SE Water Avenue, it has not had an accident with a visitor and the train, and OMSI does not anticipate operational impacts from any rail operations. Exhibit H-52, at 2.

Finally, the Staff Report and PBOT evaluated and analyzed the above measures in detail to find that the project will be able to sufficiently mitigate transportation-related impacts immediately surrounding the site and within the district. Exhibit H-5, 8-9; Exhibit E-2; Exhibit H-16, at 2. Council agrees with those findings and conclusions.

Accordingly, with the proposed measures, Council finds that criteria A.3.b-c are met.

4. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

Findings: The Water Bureau and the Fire Bureau reviewed the proposal and responded with no objections (Exhibits E-3 and E-4, respectively), indicating that adequate water supply and fire protection would be available. See also, Exhibit H-5, at 10. The Police Bureau reviewed the proposal and responded that police would be able to adequately serve the proposed use (Exhibit E-5). *Id.* The Bureau of Environmental Services reviewed the application and found the proposed sanitary sewer connection and stormwater management plan are acceptable (Exhibit E-1). *Id.*

During the proceedings before the Hearings Officer, the appellant submitted testimony (Exhibit H-35, at 9-10) contending that there is nothing in the record indicating that the proposed venue had been reviewed by the City's Fire Bureau. However, as noted above, the Portland Fire & Rescue ("PF&R") reviewed the proposal and responded with no objections to the application. Further PF&R analysis will occur during the building permit process.

For these reasons, Council finds criterion A.4 is met.

- B. Appearance.** The appearance of the facility is consistent with the intent of the zone in which it is to be located and with the character of the surrounding uses and development;

Findings: Zoning Code Section 33.140.030.C states the intent of the General Industrial zones, including the IG1 zone that applies to the subject site:

The General Industrial zones are two of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zones provide areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial areas.

1. *General Industrial 1. IG1 areas generally have smaller lots and a grid block pattern. The area is mostly developed, with sites having high building coverages and buildings which are usually close to the street. IG1 areas tend to be the City's older industrial areas.*
2. *General Industrial 2. IG2 areas generally have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street.*

The site is at the western edge of an older industrial area, and the I-5 freeway and the Willamette River are just west of the site. Exhibit H-37, at 11. The lots to the north and south of the proposed building are undeveloped, and no development is currently proposed for these lots. Exhibit A-7, at 2; see also, Exhibit H-45, at 1-2. Properties east of the site, on the opposite side of SE Water Street, are developed with one- and two-story industrial and commercial buildings. Exhibit H-45, at 1-2. A larger, four-story building (the Eastbank Commerce Center) is one block north of the proposed concert venue.

As intended for the IG1 zone, this area has a grid block pattern and relatively small lots for an industrial area. The concert venue lot would be about 32,000 square feet after required street dedications. Since this proposal is to construct a new building on a currently vacant lot, and since that building would be close to all three abutting streets, covering most of the lot area, Council finds the proposal is consistent with the intent of the IG1 zone to have “high building coverages and buildings which are usually close to the street.”

The new building would have a four-story scale and a modern design with angled roof lines and minimal ornamentation other than rooftop plantings. See Exhibit C-4; see also, Exhibit H-36 – Planting Plan, at 38; see also, Exhibit H-36 - Roofing Plan, at 39. The applicant describes the design as similar to an “upscale warehouse” (Exhibit A-12, page 9), and Exhibits A-3 and Exhibit H-45 (Neighborhood Building, at p. 4) show how the exterior design, though modern, reflects existing buildings in the area. While multiple project opponents asserted allegations that the proposed venue does not satisfy this standard, Council agrees with the Staff Report’s findings that the appearance of the proposed building would be both attractive and compatible with the industrial character of the area, consistent with the intent of the General Industrial zones to “promote viable and attractive industrial areas.”

Finally, in Exhibit H-35 and at the hearing before City Council, the appellant and some testifiers argued that the proposed use is a “wrong use in the wrong place” and that the appearance and design of the proposed venue is inconsistent with the zone and surrounding area. That argument is not supported by evidence in the record. As noted above, the proposed use is consistent with the intent of the IG1 zone and surrounding area. Neighborhood industrial buildings are similar to the proposed venue as depicted in Exhibit H-45, at 4. Additionally, the approval criteria in 33.815.215 are specifically for Major Event Entertainment Uses, and PCC Chapter 33.140 Table 140-1 explicitly recognizes that these uses may be proposed as Conditional Uses in industrial zones which includes the IG1 zone. See PCC Chapter 33.140 (Employment and Industrial Zones) – Table 140-1. Therefore, Council rejects these contentions.

Accordingly, because Council finds that the appearance of the proposed facility is consistent with the intent of the IG1 zone and with the character of surrounding uses and development, Council finds criterion B is met.

- C. Benefit.** Public benefits of the proposed use outweigh any impacts that cannot be mitigated;

Findings: The concert venue would create a higher level of activity in the evenings to deter crime and support nearby bars and restaurants without interfering with industrial businesses that operate primarily in the daytime. In addition, the applicant would be required to install public improvements such as wider sidewalks and street trees around the development site. As explained in the Staff Report, such public infrastructure improvements surrounding the block will improve the safety and security of the pedestrian environment for people who live and work in the area. Exhibit A-12, at 9; see also, Exhibit H-16.

Additionally, as further reflected in the Economic Impacts Analysis, the proposed use provides extensive public benefits that positively contribute to the area. Exhibit H-36, at 4-37. As described in detail in the analysis, these benefits include: new employment, payroll, spending with local vendors on construction and operations, new tax revenue, and indirect and induced economic activity to the surrounding area. *Id.*

Further, Council finds that the only impact relevant to the land use review approval criteria are impacts to the surrounding neighborhood. Here, the impacts are the amount of trips the site generates, summarized in the TIS. Mitigations are summarized in the TIS and transportation and parking demand management (TDM) and include public frontage improvements and TDM methods. See Exhibit A-10, Section 1; see also, Exhibit H-54. As explained in the Staff Report, there are no identified negative impacts from the proposed use that cannot be mitigated. Exhibit H-5, at 11. As noted above, the venue would largely operate outside the hours of operation of most businesses in the industrial area, and as stated in the findings above for criterion A above, public services, including the transportation system, are adequate to accommodate the proposed use.

The appellant (Exhibit H-35) contended that there are no public benefits that flow to industrial uses and such use improperly develops an industrial lot as a non-industrial use. These contentions are misplaced. Without the proposal, the lot would remain vacant and unproductive as it has been since July 2007, and would continue to consist of unimproved roads. See Exhibit H-45, at 1-2; see also Exhibit H- 48. With the proposal however, as noted above, the proposed use provides extensive public benefits to the surrounding uses and area including public infrastructure improvements and benefits to local industry activity (e.g. employment, income, or business revenues). Exhibit H-36, at 4-37; see also, Exhibit H-16. A use like the proposed venue use is expected to revitalize the Central City by generating more activation points and increased foot traffic. See Exhibit H-47. The proposed venue is also not inconsistent with industrial uses. All employment and industrial zones in the City conditionally allow Major Event Entertainment uses (PCC Chapter 33.140 Table 140-1), and as explained above, the proposed use will operate outside of the hours of nearby businesses.

Finally, in response to this standard, some testifiers including the appellant posed concerns regarding the tenant/operator of the proposed venue (Live Nation) and alleged that the operator and its business practices would negatively impact the local music and entertainment industry by squeezing out local promoters and artists. See Exhibit H-35; see also, appellant's memorandum to Council dated September 18, 2024. Such interpretations by testifiers and the appellant appear to focus on the "benefit" standard, which states "Public benefits of the proposed use outweigh any impacts that cannot be mitigated." The thrust of these arguments is that Council should interpret the phrase "any impact" as broadly as possible to include considerations about future economic impacts on venues and the local music and entertainment industry. Council rejects these contentions because Council's review is limited to application of the Zoning Code, not speculative and generalized market impacts.

Specifically, such an overbroad interpretation is inconsistent with the purpose of the Major Event Entertainment conditional use standards, which is to ensure that the impacts of such uses “are not harmful to surrounding areas and that transportation services are or will be sufficient to serve the use.” PCC 33.815.215. Consistent with this purpose statement, Council finds that the term “impacts” as used in PCC 33.815.215.C means impacts to the surrounding area and transportation services are land use impacts applying a geographically constrained analysis related to land use impacts such as noise, light, traffic, etc. In contrast, opponents interpret the criteria to regulate uncertain economic outcomes that would occur at an unknown time and place and are not directly caused by holding events at the proposed venue. Further, while the appellant cites to *Belluschi v. City of Portland*, 53 OR LUBA 455 (2007) as informative to the interpretation of this standard, it is not controlling for the reasons discussed above. Moreover, the use being proposed is a Major Event Entertainment use, which does not include consideration of the proposed operator (public, private, large, or small). PCC 33.920.230. Therefore, Council rejects these arguments because such contentions are unrelated to the approval criteria, and finds that substantial evidence in the record demonstrates that there are no impacts that cannot be mitigated.

Because there are no negative impacts identified that cannot be mitigated and which public benefits must outweigh, Council finds that criterion C is met based on substantial evidence in the record.

D. In the campus institutional zones. These approval criteria allow Major Event Entertainment facilities to be part of an institutional campus. They also ensure that the impacts of the facility on nearby areas are mitigated and that affected neighbors have an opportunity to comment on the proposals for mitigation. The approval criteria are:

1. The facility is to be established as part of a school or college. Such facilities are prohibited as part of a medical center campus;
2. The facility is limited to events that feature the athletic or performance skills of students, faculty or staff or which supplement the institution’s programs;
3. In the IR zone the facility is listed in the mission statement as part of the institution’s impact mitigation plan;
4. In the IR zone the mitigation activities completed to implement the impact mitigation plan are adequate to mitigate for the expected impact of the facility. The location chosen and mitigation measures used are consistent with the institution's approved impact mitigation plan; and
5. All approved limited uses and major event entertainment uses in aggregate occupy 30 percent or less of all campus net building area including portions of parking structures associated with these uses. If the institutional campus includes structured parking, 250 square feet of the structured parking will be associated with the major event entertainment facility for each parking space associated with the facility. Size exceptions are prohibited.

Findings: The campus institutional zones are listed in Zoning Code Section 33.150.020. Since this site is not in a campus institutional zone, criterion D does not apply.

Adjustment Review

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated that approval criteria A through F, below, have been met.

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

Findings: The applicant is requesting two Adjustments:

- To reduce the minimum number of on-site, Standard A truck loading spaces from 2 to zero (Zoning Code Section 33.266.310.C.2.c).
- To reduce the amount of ecoroof area required from 14,617 square feet (total roof area minus allowable exemptions for roof slope greater than 25%, mechanical equipment, and the elevator overrun) to 4,670 square feet (Zoning Code Section 33.510.243.B.1).

Consistency with the purpose of each requirement to be modified is discussed below.

Loading

Zoning Code Section 33.266.310.A states the purpose of the on-site loading space requirement:

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. (emphasis added)

The applicant proposes to use the SE Main Street right-of-way adjacent to the site for truck loading when needed, and this Adjustment is necessary because the Zoning Code requires loading areas that are on-site rather than in the right-of-way. However, the proposal would still accommodate two large trucks or buses simultaneously, as required by Zoning Code Section 33.266.310.C.2.c, and the loading area would be as large as would be required by Zoning Code Section 33.266.310.D.1. Thus, the purpose of ensuring adequate areas for loading for larger uses and developments is equally or better met by the proposed Adjustment.

The appearance of the loading areas will be consistent with that of required parking areas. Here, there are no required on-site parking areas or associated landscaping and screening requirements that address the appearance of parking areas. Exhibit H-54. The proposed loading areas will be visually standard loading areas and indistinguishable from parking when trucks are not present. Exhibit H-54. As found in the Hearings Officer's decision and in the Staff Report, the street would not have the appearance of a loading area or parking area when not in use for truck loading, and using the public street for loading rather than creating a dedicated loading area on-site reduces visual impacts by reducing the amount of pavement area required for the proposal. The purpose of ensuring that "appearance of loading areas will be consistent with that of parking areas" is equally or better met by the proposed Adjustment.

The applicant has also provided a detailed analysis of loading-related truck movements and traffic control plans to ensure traffic safety and continuous transportation functionality while trucks are loading and accessing the loading area. The TIS includes a traffic control plan illustrating how vehicle, bike, and pedestrian travel will be maintained on SE Main Street during the time that trucks are loading. The final measures and improvements are subject to the public works and permitting process,

but the applicant has presented feasible plans that achieve the following traffic safety measures:

- SE Main Street remaining accessible to two-way vehicular and bicycle traffic at all times. Even with the largest trucks loading, no less than 21.6 feet of the street will remain usable for vehicles. 20 feet is the standard minimum width to accommodate two-way traffic.
- Full signage and certified flagger support for truck movements to access the loading area.
- Swinging gate that closes the sidewalk and landscape area, directing pedestrians to use the sidewalk on the other side of SE Main Street when trucks are present in the loading area.

Exhibit A-10, at 35-36. The applicant's traffic control plan demonstrates that it is feasible for the proposed loading to occur without negative effect on the traffic safety or function of the surrounding transportation system. Further, any impact to SE Water Ave is not attributable to the proposed Adjustment. Even if the loading area were on-site as would be consistent with the code, the same truck movements would be required to access the loading areas. Additionally, while not relied on to approve the Adjustment, as a practical matter, construction of the venue would result in improvements to adjacent rights-of-way resulting in substantial improvement for transportation functionality of the adjacent rights-of-way. The improvements are listed at Table 21 of the TIS and benefit all modes of transportation. Exhibit A-10, at 55-56. Currently, the abutting street improvements do not meet City standards and result in conflicts between modes. For example, Exhibit H-48, at pages 2 and 3, show a pick-up truck of a local services provider navigating the current illegal angle parking on SE Salmon and lack of sidewalk improvements resulting in pedestrians in the vehicular travelway.

Based on the applicant's traffic control plan, the Council finds that it is feasible for the proposed loading Adjustment to equally or better meet the purpose of ensuring that PCC 33.266.310.A is met. Imposition of Condition of Approval C, requiring permit approval from PBOT, ensures this standard will be met.

For these reasons, and with the condition of approval of the appropriate permit as determined by PBOT, Council finds the Adjustment request equally meets the purpose of the standard.

Ecoroof

Zoning Code Section 33.510.243.A states the purpose of the ecoroof requirement:

Ecoroofs provide multiple complementary benefits in urban areas, including stormwater management, reduction of air temperatures, mitigation of urban heat island impacts, air quality improvement, urban green spaces, and habitat for birds, plants and pollinators. The standards are intended to:

- Maximize the coverage of ecoroofs;
- Allow for the placement of structures and other items that need to be located on roofs; and
- Support the architectural variability of rooftops in the Central City. (emphasis added)

Without this Adjustment, ecoroofs would be required over all the roof area with slopes not steeper than 25% and not covered by mechanical equipment and elevator and

stairwell overruns (Zoning Code Section 33.510.243.B.1). The proposed building design incorporates large, sloping roof forms that are not steep enough to be exempt from this requirement (Exhibit A-8, page 7).

While 14,670 square feet of ecoroof is proposed over parts of the roof (Exhibit H-36, at 39), the applicant states the long spans of the sloped roof areas make supporting the additional ecoroof area impractical (Exhibit A-6, page 3). As found in the memorandum by DCI Engineers, compliance with the full ecoroof standard can add up to 1,243,000 pounds, which is 20% increase in mass to the structure. Exhibit H-36, at 3. With the structural challenges identified in the memorandum, reducing ecoroof weight on the subject structure as much as possible is recommended to reduce gravity and seismic loads to the structural framing, lateral system, and piles, given the low quality soils and depth of fill. *Id.*

As such, with more ecoroof weight added to the building structure itself, the additional tons in steel and concrete would significantly increase CO2 emissions. As evident in the record, with the proposed adjustment, approximately 222 tons of CO2 emissions generated from additional steel is avoided and 289 tons of CO2 emissions generated from additional concrete is avoided. See Exhibit H-47, at 64-65. That amount of avoided emissions is equivalent to driving a typical passenger vehicle for about 1,130,400 miles, an annual electrical use of approximately 90 average American homes, and burning around 1,057 barrels of oil. Exhibit H-47, at 66. Such CO2 emissions offset many of the environmental benefits of compliance with the full ecoroof standard, and the air quality purpose of the standard is particularly better met by avoiding such emissions and providing 43% of the required ecoroof.

Council agrees with the Hearings Officer's decision and the Staff Report finding that the proposed building design illustrated in Exhibit C-4 would be unique in the area, supporting architectural variability as noted in the purpose statement above.

Council also finds the proposal creates meaningful, complementary benefits that are intended to be provided by ecoroofs in the purpose statement above. The applicant proposes the following:

- 1,500-square-foot stormwater planter on the south side of the building that exceeds the stormwater management requirements for ecoroof area (Exhibit H-36, Floor Plan – Roof; Exhibit H-36, Planting Plan);
- Stainless steel cables would allow plants to climb toward the roof (Exhibit C-4); and
- Planting of new street trees adjacent to the site (Exhibits C-1 and E-8).

With these features, the site would be much greener than it is currently and would appear greener than typical for sites in the industrial area. While some of the new greenery would not qualify as ecoroof area under Zoning Code Section 33.510.243.B.2, all the new plants and trees would reduce stormwater runoff, improve air quality, mitigate heat island impacts, and provide habitat for birds and insects. The stormwater management requirements for the site would be fully met (Exhibit E-1), and the landscaping plan for the ecoroofs and the other planters includes several plant varieties known to attract pollinators (Exhibit A-8, pages 14-15). The applicant states the planters would utilize a geocell grid to prevent soil erosion, and that plantings would be denser than typical (Exhibit A-12, page 16). The applicant also submitted an operations

and maintenance plan that would promote the long-term success of the planters (Exhibit A-11).

Furthermore, the roof will consist of white Thermoplastic Polyolefin (TPO) roofing material for heat island reduction. See Exhibit H-36, at 2. Specifically, un-planted roof areas would be white TPO roof material. As evident by applicant's Exhibit 36, such roofing materials have highly reflective properties that effectively reflect solar radiation to reduce heat island impacts. *Id.* In effect, the proposed adjustment would meet the purpose of the eco-roof standards by reducing heat islands and air temperatures.

Based on the above, Council finds that the proposed Adjustment better meets the following ecoroof purposes:

- Complimentary benefits to urban areas, stormwater management, air quality improvements, and urban green spaces;
- Allowing for the placement of structures and other items that need to be located on roofs; and
- Support the architectural variability of rooftops in the Central City.

For all these reasons, Council finds the Adjustment request equally meets the purpose of the standard.

While not relied on to determine compliance with this adjustment standard, Council finds that as a practical matter, without these green features, the lot would continue to be a vacant, un-vegetated combination of paving and gravel (Exhibit H-45, at 1; Exhibit H-48).

Summary

With the condition of approval for PBOT permit approval for the loading area, Council finds each Adjustment request equally meets the purpose of the requirement to be modified. With the condition of approval, Council finds criterion A 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: Since the site is in an industrial (I) zone, the Adjustments must be consistent with the classifications of adjacent streets and the desired character of the area.

Street classifications

The Adjustment to the loading requirement would allow SE Main Street, which is classified as a Freight District Street, to be used for truck loading for this development. PBOT is supportive of this request. Exhibit E-2; see also, Exhibit H-16, at 5-6. PBOT noted that truck loading has been traditionally accommodated in the right-of-way in this area, and that with continuous compliance with a PBOT-approved Angle Loading Permit, negative impacts on streets adjacent to the site are not expected (Exhibit E-2).

The Adjustment to the ecoroof requirement affects only the interior of the site and would have no impact on travel demand or the function of adjacent streets.

With the condition of approval for PBOT permit approval for the loading area, Council finds the proposal is consistent with the adjacent street classifications.

Desired character of area

“Desired character” is defined in Zoning Code Chapter 33.910. Pursuant to this definition, the desired character for this site is determined by:

- the character statement for the IG1 zone
- the purpose statement for the Central City Plan District
- the Buckman Neighborhood Plan
- the Central City 2035 Plan

Council finds that “consistency” requires an analysis of whether the proposed Adjustment is on balance consistent with the pertinent character-related provisions of these standards.

IG1 zone

The character statement for the IG1 zone is in Zoning Code Section 33.140.030.C:

The General Industrial zones are two of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zones provide areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial areas.

- 1. General Industrial 1. IG1 areas generally have smaller lots and a grid block pattern. The area is mostly developed, with sites having high building coverages and buildings which are usually close to the street. IG1 areas tend to be the City's older industrial areas.*
- 2. General Industrial 2. IG2 areas generally have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street.*

The new building would cover most of the lot and would be close to each of the abutting streets, and as discussed in the Conditional Use Review findings under PCC 33.815.215.A, the quality building design would be compatible with nearby development and contribute to a more attractive industrial area. Council finds the proposal is therefore consistent with the character intended for the IG1 zone, and that neither of the Adjustment requests would detract from this character.

Central City Plan District

The purpose statement for the Central City Plan District is in Zoning Code Section 33.510.010:

The Central City plan district implements the Central City 2035 Plan. The regulations address the unique role the Central City plays as the region's premier center for jobs, health and human services, tourism, entertainment and urban living. The regulations encourage a high-density urban area with a broad mix of commercial, residential, industrial and institutional uses, and foster transit-supportive development, pedestrian and bicycle-friendly streets, a vibrant public realm and a healthy urban river.

A new concert venue for 3,500 spectators at this location would broaden the use mix in the Central Eastside and reinforce the Central City's role as the premiere location in the region for entertainment and tourism. The location is easily accessible by multiple transit lines, and pedestrians and cyclists can easily access the site from the nearby Eastside Esplanade as well as from the neighborhood street grid. Neither of the Adjustment requests would detract from the purpose of the Central City Plan District.

Buckman Neighborhood Plan

Council finds the following objectives from the Buckman Neighborhood Plan to be relevant:

Objective 1.6. Support planning and design of new developments that enhance neighborhood livability.

Objective 1.7. Promote the development of a clear identity for commercial nodes on Burnside, Belmont/Morrison, Hawthorne and the Central Eastside.

Objective 5.1. Control neighborhood traffic and parking to ensure safety and livability for neighborhood residents.

Objective 5.2. Encourage alternatives to automobile use.

Objective 5.10. Discourage trucks from blocking the streets when loading and unloading, except in the designated truck zone.

Objective 6.16. Encourage visual, literary, and performing arts to thrive in Buckman.

Objective 7.2. Encourage pedestrian-oriented commercial development.

As found in the Staff Report and in the Hearings Officer's decision, the proposal would create a new destination and amenity in the Buckman Neighborhood, support the performing arts, and contribute to a higher profile for the Central Eastside. Since the concert venue would be several blocks from residential areas, impacts on neighborhood livability would be minimal.

The development would have a pedestrian-oriented design with the building facades close to the street lot lines, improved public sidewalks, and no on-site motor vehicle parking. PBOT found that street parking in the vicinity would be adequate to support the development, and PBOT also recommended a condition of approval to require compliance with a transportation demand management (TDM) plan to limit single-occupancy vehicle trips associated with the proposed use. Exhibit E-2; see also, Exhibit H-16.

The Adjustment to the loading requirement would allow trucks to partially, but not fully, block SE Main Street when loading or unloading, but only within a designated, PBOT-approved truck loading area. As recommended by PBOT, applicant will obtain an approval of and comply with an appropriate permit as determined by PBOT to ensure truck loading does not significantly impact the functions of the public right of way in SE Main Street. Exhibit E-2; see also, Exhibit H-16.

Project opponents argued that the Objective 5.10 cannot be met. However, the loading proposal is consistent with Objective 5.10 because loading in the street is limited to the portion of SE Main Street within the proposed loading area. In short, the loading area is the designated truck zone.

For these reasons, and with the conditions of approval recommended by PBOT, Council finds the proposal is consistent with the Buckman Neighborhood Plan and neither of the Adjustment requests would detract from the objectives of the Buckman Neighborhood Plan.

Central City 2035 Plan

Council finds the following statements from the Central City 2035 Plan to be relevant:

Goal 1.A. Portland's Central City is the preeminent regional center for commerce and employment, arts and culture, entertainment, tourism, education and government.

Policy 1.1. Regional image. Strengthen the roles of the Central City and Willamette River in enhancing a positive image for the city, region and state.

Policy 1.4. Tourism, retail and entertainment. Expand upon activities in the Central City that support tourism and complement economic success, vibrancy, and livability, with a special focus on retail, cultural events and institutions, public spaces, arts and entertainment, urban design, and transportation.

Policy 1.CE-1.a. Industrial center. Protect the Central Eastside as a centralized hub of industrial businesses and services that support the regional economy by serving other industrial districts and businesses located throughout the Portland metropolitan area.

Policy 3.16. Loading. Support the delivery of goods in the Central City. Pursue strategies that bring new ways of delivering goods to the Central City in a way that optimizes loading and freight access and makes efficient use of limited urban space.

Policy 5.6. Distinct and vibrant districts. Enhance the existing character and diversity of the Central City and its districts, strengthening existing places and fostering the creation of new urban places and experiences.

Central Eastside 2035 Vision. The Central Eastside is a large, multimodal and vibrant employment district where existing industrial and distribution businesses continue to thrive while the district's job base grows and diversifies to attract new and emerging industries.

The new investment on this site would broaden the use mix in the Central Eastside, reinforce the Central City's role as the region's premiere location for entertainment and tourism, and support a positive image of the city as a vibrant, healthy community. The venue will activate a site that has been vacant, and an area where restaurant and retail uses will benefit from the influx of venue patrons.

Since the site is at the edge of the industrial area, and since the concert venue would operate in the evenings, the proposal would not significantly impact neighboring industrial businesses, which operate primarily in the daytime.

The Adjustment to allow truck loading from the SE Main Street right-of-way is supported by PBOT (Exhibit E-2 and Exhibit H-16) and would make efficient use of urban space by avoiding the need for a separate truck loading area on-site.

For these reasons, Council finds the proposal is consistent with the Central City 2035 Plan and neither of the adjustment requests would detract from the goals and policies of the Central City 2035 Plan.

Summary

With the conditions of approval recommended by PBOT for the transportation demand management plan and the Angle Loading Permit, Council finds the proposal is consistent with the classifications of adjacent streets and with the desired character of the area. With the condition of approval, Council finds criterion B 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: Zoning Code Section 33.140.030.C describes the purpose of the IG1 zone:

The General Industrial zones are two of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zones provide areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial areas.

1. *General Industrial 1. IG1 areas generally have smaller lots and a grid block pattern. The area is mostly developed, with sites having high building coverages and buildings which are usually close to the street. IG1 areas tend to be the City's older industrial areas.*
2. *General Industrial 2. IG2 areas generally have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street.*

As stated in the findings for criterion B and explained in the Staff Report and Hearings Officer's decision, the new building would cover most of the lot and would be close to each of the abutting streets, and the quality building design would contribute to a more attractive industrial area. In particular, the Adjustment for loading will allow the required number of loading spaces to be provided within the right-of-way, which is quite typical within the Central Eastside industrial area. Exhibit A-12, at 17; see also, Exhibit H-16. Further, with the site located in the Central Eastside, truck loading has historically been accommodated in the ROW with review from PBOT via a loading permit as determined by PBOT or equivalent. Exhibit H-16, at 5-6.

The ecoroof adjustment will allow for less ecoroof coverage than required, but the proposal includes several green design features, including partial ecoroofing combined with stormwater facilities to meet the purpose of the standard as noted above. See Exhibit H-36, at 2; Exhibit H-36 – Planting Plan, at 38; Exhibit H-36 – Eco-roof Area Plan, at 39. Neither of the proposed Adjustments will cause any increase in conflicts with the surrounding industrial uses. There are no such uses on SE Main, west of SE Water Ave. The condition to obtain a PBOT permit will allow PBOT to further mitigate any conflicts on SE Water Ave from loading-related truck movements. No such mitigation would be required for on-site loading areas. Thus, whether considered individually or cumulatively, the effects of the Adjustments do not detract from the proposal's consistency with the purpose of the IG1 industrial zone.

Council finds the proposal is therefore consistent with the purpose statement above. The effects of the two Adjustment requests are to allow a smaller area of the roof to be ecoroof and to allow the SE Main Street right-of-way to be used for truck loading when needed. Whether considered individually or cumulatively, these effects do not detract from the proposal's consistency with the purpose of the IG1 industrial zone. Thus, Council finds criterion C is met.

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

Findings: City-designated scenic resources are identified on zoning maps with an “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic resources or historic resources mapped on the subject site (Exhibit B), this criterion is not applicable.

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

Findings: The Adjustment to waive the requirement for an on-site truck loading area would be mitigated by the truck loading area within the SE Main Street right-of-way. Though loading areas within the right-of-way do not count toward the Zoning Code requirement, the proposed loading area would be adjacent to the building’s loading and staging room (Exhibit A-8, page 2) and would meet the dimensional requirements that would apply to an on-site loading area (Zoning Code Sections 33.266.310.C.2.c and 33.266.310.D.1).

More specifically, when trucks are loading, a portion of the SE Main Street right-of-way will be blocked. To mitigate this impact, the applicant proposes various measures to ensure that SE Main Street will be safe and functional for all modes of transportation. The TIS includes a traffic control plan illustrating how vehicle, bike, and pedestrian travel will be maintained during the time that trucks are loading. The final plans and improvements are subject to the public works and angle loading permitting process, but SE Main Street will:

- Be accessible to two-way vehicular traffic. Even with the largest trucks loading, no less than 21.6 feet of the street will remain usable for vehicles. 20 feet is the standard minimum width to accommodate two-way traffic.
- Reduce on-street parking on the southern side of SE Main.
- Provide full signage and certified flagger support for truck movements to approach the loading area.
- Provide a swinging gate that closes the sidewalk and landscape area, directing pedestrians to use the sidewalk on the other side of SE Main Street when trucks are present in the loading area.

Exhibit A-10, at 35-36. Impact of the loading Adjustment is further mitigated by the dead-end nature of motor vehicle traffic on the section of SE Main Street west of SE Water Avenue .

The Adjustment to the ecoroof requirement would be mitigated by on-site stormwater management plan that meets BES requirements (Exhibit E-1), and the landscaping plan for the ecoroofs and the other planters includes several plant varieties known to attract pollinators (Exhibit A-8, at 14-15). This Adjustment is also mitigated by the applicant’s plan to use a white roof for heat island reduction. Exhibit H-36, at 2.

Accordingly, Council finds the impacts of both Adjustment requests are mitigated to the extent practical and that criterion E is therefore 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 zoning maps with either a “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone).

As there are no environmental overlay zones mapped on the subject site (Exhibit B), 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

Council hereby adopts and incorporates findings in the Hearings Officer's decision and in the Staff Report, as modified herein. Council finds the proposal for a new concert venue on this site would not negatively impact the industrial area, and that adequate public services are available to support the proposal.

Council also finds the proposed Adjustments to the loading and ecoroof requirements are consistent with the purpose of the standards to be modified, with the character of the area, and with the purpose of the IG1 zone. Impacts from the Adjustments would be mitigated to the extent practical.

With the conditions of approval listed below, Council finds that each of the applicable Conditional Use Review and Adjustment Review approval criteria are met.

CITY COUNCIL FINDINGS AND FINAL DECISION

The decision of the City Council is:

Approval of Conditional Use Review to establish a Major Event Entertainment use on this site; and

Approval of two Adjustments:

- To reduce the minimum number of on-site, Standard A truck loading spaces from 2 to zero (Zoning Code Section 33.266.310.C.2.c).
- To reduce the amount of ecoroof area required from 14,617 square feet (total roof area minus allowable exemptions for roof slope greater than 25%, mechanical equipment, and the elevator overrun) to 4,670 square feet (Zoning Code Section 33.510.243.B.1).

The approvals are per the approved plans, Exhibit C-1 through C-4, and subject to the following conditions of approval:

- A. As part of the building permit application submittal, each of the required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C-1 through C-4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 23-111784 CU AD."
- B. Prior to issuance of a building permit for this development, the applicant must receive 30 percent public works concept approval and make any required bond payment for required frontage improvements abutting the site.

- C. Prior to issuance of a building permit for this development, the applicant must obtain approval of the appropriate permit as determined by PBOT for the proposed truck loading in SE Main Street. The applicant must adhere to all the conditions and stipulations of said permit for the life of the proposed use. If any conditions are found to be in violation, the applicant may be fined and/or applicable permits may be revoked.
- D. The applicant must continually implement the transportation demand management (TDM) measures identified in the TDM plan in Exhibit A-10 that are within their control.
- E. The applicant must assess the bike parking capacity on an annual basis for the first 3 years after the concert venue begins operation and then every other year after that ending with year 11. That assessment must include bike count averages for events throughout the year. The applicant must send their assessment to PBOT Development Review and PBOT Active Transportation and Safety. If demand consistently exceeds the provided bike parking, the applicant must work with PBOT on remedies, including but not limited to adding additional bike racks or a contract for offering temporary bike racks during events.

EXHIBITS (not attached unless indicated)

A. Applicant's Statement:

Original submittal

- 1. Original narrative
- 2. Original plan set
- 3. Context images
- 4. Original stormwater report
- 5. Original transportation study

May 23, 2024 submittal

- 6. Letter in response to incompleteness determination letter
- 7. Revised narrative
- 8. Revised plan set
- 9. Revised stormwater report
- 10. Revised transportation study

June 24, 2024 submittal

- 11. Operations and maintenance plan for stormwater planters and ecoroofs

June 26, 2024 submittal

- 12. Final revised narrative

B. Zoning Map (attached)

C. Plans & Drawings:

- 1. Site plan (attached)
- 2. East and south building elevations (attached)
- 3. West and north building elevations (attached)
- 4. Photo simulation (attached)

D. Notification information:

- 1. Request for Response
- 2. Sign posting instructions
- 3. Applicant's statement certifying posting
- 4. Notice of Public Hearing, mailed June 20, 2024
- 5. Mailing list for Notice of Public Hearing

E. Agency Responses:

1. Bureau of Environmental Services
 2. Portland Bureau of Transportation
 3. Water Bureau
 4. Fire Bureau
 5. Police Bureau
 6. Site Development Review Section of BDS
 7. Life Safety Review Section of BDS
 8. Parks and Recreation - Urban Forestry Division
- F. Correspondence (none received)
- G. Other:
1. Land use review application
 2. Incompleteness determination letter, dated January 12, 2024
 3. Applicant email withdrawing bike parking Adjustment request, received June 25, 2024
- H. Hearings Office Decision (August 14, 2024) and Exhibits:
1. Hearing request info
 2. Hearing participation instructions
 3. Notice of hearing
 5. Staff Report
 6. Staff memo
 7. Nick Wood testimony
 8. Patrick Fleming testimony
 9. Staff presentation
 10. Jeff Miller testimony
 11. Portland Metro Chamber (PMC) comments
 12. OMSI Support letter
 13. Live Nation land use comments
 14. PBOT Memo
 15. Transportation Information
 16. PBOT Memo Additional
 17. Record closing information
 18. Kevin Killian written testimony
 19. Aaron Kuehn written testimony
 20. Applicant's presentation
 21. Jaime Dunphy written testimony
 22. LU-23-11784 CU AD 14-day Extension
 23. Katie Bergen testimony
 24. Kate Sena testimony
 25. Chad Colwell testimony
 26. Debra Krueger testimony
 27. Carolyne Holcomb testimony (CEIC)
 28. Jon Meyer testimony
 29. Tori Johnson new evidence
 30. Tom Liptan new evidence
 31. Ronnie Carrier new evidence
 32. K. Jasmine Robb testimony
 33. Marshall Runkel testimony
 34. Kiel Johnson testimony (email chain)
 35. Carrie Richter new evidence
 36. Applicant's new evidence pt. 1
 37. Applicant's new evidence pt. 2
 38. Applicant's new evidence pt. 3
 39. Bob Sallinger's new evidence
 40. PBOT Memo
 41. H. Lee & Associates, PLLC
 42. Dunphy response to new evidence

43. Runkel updated testimony
 44. Applicant's response to new evidence pt. 1
 45. Applicant's response to new evidence pt. 2
 46. Applicant's response to new evidence pt. 3
 47. Applicant's additional response to new evidence
 48. Applicant's additional response to new evidence p. 1
 49. Applicant's additional response to new evidence p. 2
 50. Applicant's additional response to new evidence p. 3
 51. Applicant's additional response to new evidence p. 4
 52. Applicant's final response to new evidence
 53. Runkel further testimony
 54. Applicant's final written argument
- I. Written testimony submitted to City Council