



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

Charlie Hales, Mayor
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER

CASE FILE: LU 13-135145 ZC
PC # 13-117716
REVIEW BY: Hearings Officer
WHEN: June 19, 2013, at 2:00 PM
WHERE: 1900 SW Fourth Avenue, Suite 3000
Portland, OR 97201

BUREAU OF DEVELOPMENT SERVICES STAFF: DOUGLAS HARDY / DOUGLAS.HARDY@PORTLANDOREGON.GOV

GENERAL INFORMATION

Applicant: Laurie Simpson
Laurie J. Simpson, Architect
4072 N Williams Avenue
Portland, OR 97227

Property-Owner: Water Avenue Assoc.
7925 SE 140th Drive
Portland, OR 97236

Site Address: 1800 SE Water Avenue

Legal Description: Lot 2 exc pt in st, Partition Plat 1995-58
Tax Account No.: R649752130
State ID No.: 1S1E03DA 01702
Quarter Section: 3230

Neighborhood: Hosford-Abernethy, contact Joanne Stainbrook at 503-231-9245
Business District: Central Eastside Industrial Council, contact Peter Fry at 503-274-1415
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010

Plan District: Central City - Central Eastside
Existing Zoning: IG1gs - General Industrial 1, with a River General Greenway overlay and a Scenic Resource overlay

Case Type: Zoning Map Amendment (ZC)
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 is requesting a Zoning Map Amendment to change the General Industrial 1 (IG1) zoning on the subject site, in compliance with the existing Mixed Employment Comprehensive Plan Map designation. While the existing Comprehensive Plan Map designation identifies a General Employment 2 (EG2) zone, the applicant is requesting that the General Employment 1

(EG1) zone be mapped on the site. The existing River General Greenway (g) and Scenic Resource (s) overlay zones on the site will be retained. No exterior changes are proposed to the existing buildings or site at this time. The applicant states the intent of the Zoning Map Amendment is to allow a greater amount of retail, office and community service space than is allowed by the current IG1 zone, and to allow a school use in a portion of the existing building.

RELEVANT APPROVAL CRITERIA

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are found in Zoning Code Section 33.855.050 (Approval Criteria for Base Zone Changes).

ANALYSIS

Site and Vicinity: The 51,252 square foot triangular shaped site is located in the Central Eastside subdistrict of the Central City Plan District. The site is bounded along its west property line by SE Water Avenue, and along its easterly lot line by a leg of SE Water Avenue. The flat site is currently developed with three buildings. The first building, two stories in height and 6,956 square feet in area, is built to the west street lot line along the site's SE Water Avenue frontage. It is, or previously was, occupied with headquarter office space. The second building, a one-story, 5,139 square foot structure identified by the applicant as a fabrication shop, is located in the southeastern corner of the site. The third building, also a one-story structure and identified by the applicant as a crew office building, is 2,058 square feet in size and located in the northern portion of the site. More than one-half of this third building (as well as a portion of the second building) appears to be located within the leg of the SE Water Avenue right-of-way (see Exhibit C.1). The remainder of the site is largely paved and used for equipment storage as well as parking.

The surrounding area is developed with a mixture of uses. The Oregon Museum of Science (OMSI) is the dominant use in the nearby vicinity of the subject site. OMSI land ownership includes property immediately west of the subject site (across SE Water Avenue), as well as property to the south and southeast. These properties are developed with buildings, exhibit space, open plazas, and surface parking for use by OMSI. OMSI, considered a Major Event Entertainment use, is regulated as a Conditional Use in this location. Other uses in the nearby vicinity include the Portland Community College located immediately north of the subject site, and what appears to be a Portland General Electric power substation immediately south of the subject site. A rail line runs diagonally to the subject site near its eastern edge, and the elevated Interstate-5 freeway is located just east of the site near the Willamette River. Properties farther north of the subject along SE Water Avenue are developed with a variety uses ranging from office to manufacturing.

Zoning: The site is currently mapped with a General Industrial 1 (IG1) base zone, with much of the site also mapped with a River General (g) Greenway overlay zone, and a Scenic Resource (s) overlay zone. The site also currently has a Comprehensive Plan Map designation of General Employment 2 (EG2). The applicant is requesting that a General Employment 1 (EG1) zone be mapped on the site. The site is also located within the boundaries of the Central City Plan District.

The IG1 zone is one of three zones that implements the Industrial Sanctuary map designation of the Comprehensive Plan. The three zones (IG1, IG2 and IH) 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 of the zones are intended to allow new development which is similar in character to existing development. The development standards are also intended to promote viable and attractive industrial areas. IG1 areas generally have smaller lots and a grid block pattern than the IG2 zone. Areas mapped with the IG1 zone are

mostly developed, with sites having high building coverages and buildings which are usually close to the street. IG1 zoned areas tend to be in the City's older industrial areas.

The EG2 zone is one of two zones that implements the Mixed Employment map designation of the Comprehensive Plan. The two Mixed-Employment zones (EG1 and EG2) allow a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zones is on industrial and industrially related uses. Other commercial uses are allowed to support a wide range of services and employment opportunities. The development standards for each zone are intended to allow new development which is similar in character to existing development, and to promote viable and attractive industrial/commercial areas. Areas mapped with the EG2 zone generally have larger lots and an irregular or large block pattern. These areas are less developed, with sites having medium and low building coverages and buildings which are usually set back from the street. Areas mapped with the EG1 zone generally have smaller lots and a grid block pattern. These areas are mostly developed, with sites having high building coverages and buildings which are usually close to the street. EG1 zoned lands will tend to be on strips or in small areas.

The City's five Greenway overlay zones implement the land use pattern identified in the Willamette Greenway Plan and the water quality requirements of Metro Code 3.07.340.B (Title 3). The River General Greenway overlay zone allows for uses and development which are consistent with the base zoning, which allow for public use and enjoyment of the waterfront, and which enhance the river's natural and scenic qualities.

The Scenic Resource overlay zone is intended to:

- protect Portland's significant scenic resources as identified in the *Scenic Resources Protection Plan*;
- enhance the appearance of Portland to make it a better place to live and work;
- create attractive entrance ways to Portland and its districts;
- improve Portland's economic vitality by enhancing the City's attractiveness to its citizens and to visitors; and
- implement the scenic resource policies and objectives of Portland's Comprehensive Plan.

The purposes of the Scenic Resource zone are achieved by establishing height limits within view corridors to protect significant views and by establishing additional landscaping and screening standards to preserve and enhance identified scenic resources. The Scenic overlay on the subject site is intended to protect a designated view corridor (VB24-49), which has a 50-foot height limit for structures and vegetation.

The Central City Plan District implements the Central City Plan and other plans applicable to the Central City area. These other plans include the Downtown Plan, the River District Plan, the University District Plan, and the Central City Transportation Management Plan. The Central City Plan District implements portions of these plans by adding code provisions that address special circumstances in the Central City area.

Land Use History: City records indicate the following prior land use reviews have been approved on the subject site:

- LUR 93-00803 MP: Approval of a two lot Minor Partition.
- LUR 03-156196 GW: Approval of a Greenway Review to construct a two-story addition on the north side of an existing one-story office building that serves as the headquarters for the Pioneer Waterproofing Company, and to install new plantings around the building addition.

Agency Review: A Request for Response was mailed April 29, 2013. Written comments have been received from the following bureaus and agencies:

The Bureau of Environmental Services (BES) responded that they are satisfied that the adequacy of public services approval criterion for the requested Zoning Map Amendment related to sanitary waste disposal and stormwater disposal systems has been met, and recommend no conditions of approval. BES' comments are included in Exhibit E.1, and detailed later in this report in response to the Zoning Map Amendment approval criteria.

The Portland Bureau of Transportation (PBOT) reviewed the request for potential impacts on the public right-of-way and transportation services, and conformance with adopted policies, street designations, Title 33 and Title 17 (Exhibit E.2). With a condition of approval that places a cap on the number of trips generated by uses on the site (100 weekday AM peak hour trips and 102 PM peak hour trips), PBOT finds that the transportation system can accommodate potential development that could occur under the proposed EG1 zone, and supports the request. Further detail on PBOT's analysis and condition of approval is provided in response to the approval criteria, below.

The Oregon Department of Transportation (ODOT) noted that the subject site is proximate to the Interstate-5 OMSI Central Eastside Industrial District/Water Street exit, and that the operation of this ODOT facility currently does not meet *ODOT Highway Plan* performance standards (Exhibit E.3). The trip cap proposed by the applicant (as noted above) is the equivalent of the reasonable worst case scenario of trip generation under the existing IG1 zoning. With this trip cap, ODOT finds that the requested Zoning Map Amendment will not have significant adverse impacts on the nearby ODOT exit ramp, and is supportive of the proposal. Additional detail on ODOT's comments is provided below in response to the approval criteria.

The Water Bureau responded that water service is available to serve development under the proposed EG1 zone, and has no concerns with the request (Exhibit E.4).

The Fire Bureau responded with no concerns regarding the requested Zoning Map Amendment, and noted that any new development on the site will require a building permit, and all applicable Fire Code requirements must be met at that time (Exhibit E.5).

The Police Bureau responded that they are capable of serving the development allowed under the proposed zoning designation (Exhibit E.6). The Police Bureau also encourages the owner/developer to work with the Central Precinct Commander on any public safety issues or concerns that may arise with future development on the site.

The Bureau of Development Services Site Development Section responded with no concerns regarding the requested amendment (Exhibit E.7). They note the site is not in a Potential Landslide Hazard Area, nor within the 100-year flood plain. Future development will be subject to compliance with Title 10 erosion and sediment control requirements.

Portland Parks & Recreation Urban Forestry Division responded with no concerns regarding the proposal (Exhibit E.8).

Neighborhood Review: Two responses have been received from the neighborhood regarding the requested amendment.

The Central Eastside Industrial Council (CEIC) Land Use and Development Committee submitted a letter supporting the requested amendment, and noted the Committee has traditionally supported Zoning Map Amendments that are in compliance with the

Comprehensive Plan Map (Exhibit F.1). The Committee finds that the applicant has sufficiently addressed the relevant land use review criteria.

The Chair of the Hosford-Abernethy Neighborhood District (HAND) submitted an e-mail indicating the HAND board generally follows the lead of the CEIC regarding land use proposals in the Central Eastside industrial area (Exhibit F.2). While this land use proposal has not yet been discussed by the full board, the Chair notes that she is confident there would be little or no objection to the amendment request. It is BDS' understanding that the HAND board will be formally discussing the amendment request and will forward a recommendation to the Hearings Officer in advance of the land use hearing.

No written responses have been received from notified property owners.

ZONING CODE APPROVAL CRITERIA

Zoning Map Amendment

33.855.050 Approval Criteria for Base Zone Changes

An amendment to the base zone designation on the Official Zoning Maps will be approved (either quasi-judicial or legislative) if the review body finds that the applicant has shown that all of the following approval criteria are met:

A. Compliance with the Comprehensive Plan Map. The zone change is to a corresponding zone of the Comprehensive Plan Map.

1. When the Comprehensive Plan Map designation has more than one corresponding zone, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.

Findings: The Mixed Employment Comprehensive Plan Map designation has two corresponding zones: EG1 and EG2. In describing the characteristics of the zones, language in Zoning Code Section 33.140.030.A states that both the EG1 and EG2 zones are intended to allow a wide range of employment opportunities without potential conflicts from interspersed residential uses. Other commercial uses are allowed to support a wide range of services and employment opportunities. The development standards for both zones are described as intending to allow new development which is similar in character to existing development.

The substantive differences between the two zones are described in the Zoning Code Sections 33.140.030.A.1 and A.2, and read as follows:

EG1 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. EG1 zoned lands will tend to be on strips or small areas.

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

The applicant has requested that the EG1 zone be mapped on the subject site, and based on the analysis provided below, BDS concurs that the EG1 designation is the most appropriate zone for this site.

As noted above, the EG1 zone is intended to be mapped in areas that have smaller lots in an area with a grid block pattern. While the subject site is on an irregularly shaped block, it is located less than a half block south from an area having a grid pattern that is in part mapped with the EG1 zone. Additionally, the subject site has a lot area of only 51,225 square feet. This compares to a lot size of 509,083 for the three tax lots that comprise the neighboring OMSI site (located in an area with a Comprehensive Plan Map designation of Mixed Employment), with lots to the south of the OMSI site at or in excess of 100,000 square feet in area. The Portland Community College site immediately north of the subject site, in an EG2 zone, has an area of 125,000 square feet. By comparison, properties one block north of the subject site, along SE Water Avenue and located in the EG1 zone, have lot sizes ranging from 12,529 square feet to 44,320 square feet. Based on the proximity of the subject site to the grid block pattern to the north, and its smaller lot size in comparison to those larger lots to the south that are either mapped with the EG2 zone or have an EG2 Comprehensive Plan Map designation, the proposed EG1 zone is the most appropriate for the applicant's site.

The existing EG2 Comprehensive Plan Map designation was placed on the site (and surrounding area) as part of the *Central City Plan* which was adopted in 1988. At that time, the site did not exist in its existing form, and instead was part of a larger superblock which had no through streets. This is evidenced in Figure 7 (page 77) of the *Central City Plan* (included herein as Exhibit G.2). Because of this block pattern, the Action Chart included in Policy 20 of the *Central City Plan*, which applied to the Central Eastside, called for fostering superblock development in this area (Project CE18). With the subsequent extension of SE Water Avenue through this area, the applicant's site was no longer part of this superblock, and the EG2 zone, with its large lot sizes and deep setbacks, was no longer appropriate.

Finally, because of the large lot sizes expected in the EG2 zone, one of the characteristics of development in the EG2 zone (as stated in Zoning Code Section 33.140.030.A.2) is for buildings to be set back from the street lot line. This is reflected in the EG2 development standard that requires a minimum 25 foot building setback from street lot lines. Existing development on the subject site is inconsistent with this desired development pattern. Instead of a minimum building setback of 25 feet, the largest building on the site is built to the street lot line along SE Water Avenue.

Based on these findings, BDS finds that of the two corresponding zones to the Mixed Employment Comprehensive Plan Map designation, the EG1 zone is the most appropriate for the subject site.

This criterion is met.

2. Where R zoned lands have a C, E, or I designation with a Buffer overlay, the zone change will only be approved if it is for the expansion of a use from abutting nonresidential land. Zone changes for new uses that are not expansions are prohibited.

Findings: As the site is not residentially zoned, this criterion does not apply.

3. When the zone change request is from a higher-density residential zone to a lower-density residential zone, or from the CM zone to the CS zone, then the approval criterion in 33.810.050 A.2 must be met.

Findings: As the request does not involve residential zones or the CM or CS zone, this criterion does not apply.

B. Adequate public services.

1. Adequacy of services applies only to the specific zone change site.

Findings: The adequacy of services evaluation provided below applies to the specific EG1 zone change that is requested for the subject site.

2. Adequacy of services is determined based on performance standards established by the service bureaus. The burden of proof is on the applicant to provide the necessary analysis. Factors to consider include the projected service demands of the site, the ability of the existing and proposed public services to accommodate those demand numbers, and the characteristics of the site and development proposal, if any.
 - a. Public services for water supply, and capacity, and police and fire protection are capable of supporting the uses allowed by the zone or will be capable by the time development is complete.

Findings: The relevant City bureaus reviewed the requested amendment for compliance with this approval criterion, and as detailed below, have determined that they are capable of supporting uses allowed by the proposed EG1 zone.

Water Supply and Capacity

The Water Bureau states that there is a 1.5 inch metered service (Serial #29007802, Account #2955514000) that currently provides water to this location from the existing 12 inch water main in SE Water Avenue. The estimated static water pressure range for this location is 82 psi to 102 psi at the existing service elevation of 33 feet. The Water Bureau has reviewed the proposed action and finds they are capable of serving the uses and development allowed under the proposed EG1 zone.

Police Protection

The Police Bureau's Strategic Services Division and Central Precinct Commander have reviewed the proposal and determined the Police Bureau is capable of serving the uses and development allowed under the proposed EG1 zone.

Fire Protection

The Fire Bureau has reviewed the applicant's Zoning Map Amendment request and has no issues with the ability of its bureau to serve the uses and development allowed under the proposed EG1 zone.

Based on the responses from the relevant City service bureaus, public services for water supply and capacity, and police and fire protection are capable of supporting the uses allowed by the zone, and this criterion is met.

- b. Proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services. Performance standards must be applied to the specific site design. Limitations on

development level, mitigation measures or discharge restrictions may be necessary in order to assure these services are adequate.

Findings: BES has reviewed information provided by the applicant and coordinated directly with the applicant's sewer locator, and is satisfied that the adequacy of public services approval criterion for sanitary waste disposal and stormwater disposal systems has been met, and no conditions of approval are required. BES provided the following comments regarding sanitary waste disposal and stormwater disposal systems.

Sanitary Service

1. *Existing Public Sanitary Infrastructure:*
 - a. *There is an 8 inch concrete public sanitary gravity sewer located north of this site in the area identified as SE Water right-of-way (BES Project # 4966). Per City plumbing records, this sanitary sewer appears to serve the sanitary disposal needs of this site.*
2. *Existing Private Sanitary System: BES coordinated directly with the applicant's sewer locator. According to the site inspection performed by the sewer locator, the private sanitary system for existing structures on this site discharges to a private manhole located on the northern portion of this site, approximately between the "office building", "crew office building", and "fabrication shop." Piped discharge from the private sanitary manhole runs north and connects to the public sanitary sewer system via a public manhole to the north located in the public right-of-way.*

Stormwater Management

1. *Existing Public Stormwater Infrastructure:*
 - a. *There is a 12-inch concrete public storm-only sewer located in a portion of SE Water Avenue near the southwest corner of this site (BES project #5936).*
 - b. *There is a 10-inch concrete public storm-only sewer located runs parallel to the southern boundary (near the southwest corner) of this site.*
2. *Existing Private Stormwater System: BES coordinated directly with the applicant's sewer locator. According to the site inspection performed by the sewer locator, the private storm system for existing structures on this site appears to discharge to two locations: (1) the private manhole located on the northern portion of this site, approximately between the office building, crew office building, and fabrication shop; and (2) a private storm pipe that is full of debris and ends near the south side of the office building. It appears the portion of the private storm system that discharges to the public sanitary sewer system has not significantly impacted the capacity of the system and no new or redeveloped impervious area is currently being proposed at this time.*
3. *General Stormwater Management Requirements: All development and redevelopment proposals are subject to the requirements of the City of Portland Stormwater Management Manual (SWMM). Development projects are evaluated using the criteria described in Section 1.3 of the SWMM.*
4. *On-Site Stormwater Management Comments: BES reviews stormwater management facilities on private property for the feasibility of infiltration, pollution reduction, flow control, and off-site discharges.*
 - a. *BES understands that no new or redeveloped impervious area is currently*

being proposed on the site at this time and that improvements may occur within existing structures. Since no new impervious area is being proposed, the following information applies for this specific project: it is not in a combined sewer area; an offsite disposal location is available if onsite infiltration is not feasible for future development of this site; the City of Portland's Sewer and Drainage Facilities Design Manual identifies sanitary flows for the proposed zone as being equal to flows for the current zone; the proposed zone requires less lot coverage than the current zone which would allow space for stormwater facilities if the site is developed in the future; and the proposed zone is in compliance with the Comprehensive Plan Map.

- b. BES coordinated directly with the applicant's sewer locator and understands that the private storm system for existing structures on this site appears to discharge to the public sanitary sewer system and to a private storm pipe that is full of debris and does not connect to the public sewer system. It appears the portion of the private storm system that discharges to the public sanitary sewer system has not significantly impacted the capacity of the system and no new or redeveloped impervious area is currently being proposed at this time. Therefore, for the purposes of this land use review, BES has determined that the BES adequacy of public services approval criterion has been met.*
5. *Public Right-of-Way Stormwater Management Comments: BES reviews stormwater management facilities in the public right-of-way for compliance with SWMM requirements such as Infiltration and Discharge, Pollution Reduction, and Flow Control. The following comments apply to this project as required by the City of Portland Bureau of Transportation (PBOT).*
- a. PBOT has indicated that there will be no frontage improvement or dedication requirements associated with the proposed Zoning Map Amendment. Therefore, BES has no public stormwater drainage improvement requirements.*

Based on these findings, the sanitary waste disposal and stormwater disposal systems are acceptable to BES, and this criterion is met.

- c. Public services for transportation system facilities are capable of supporting the uses allowed by the zone or will be capable by the time development is complete. Transportation capacity must be capable of supporting the uses allowed by the zone by the time development is complete, and in the planning period defined by the Oregon Transportation Rule, which is 20 years from the date the Transportation System Plan was adopted. Limitations on development level or mitigation measures may be necessary in order to assure transportation services are adequate.*

Findings: Both ODOT and PBOT have reviewed the application for its potential impacts on the public right-of-way and transportation services, and finds this criterion is met with one recommended condition of approval.

ODOT's findings and recommendations are as follows:

ODOT has reviewed the proposal to change the zoning on the property from General Industrial 1 (IG1) to General Employment 1 (EG1) to allow land uses currently not permitted. The property is located within the vicinity of the I-5 OMSI Central Eastside Industrial District Exit / Water St intersection. This intersection is under ODOT jurisdiction and we have an interest in ensuring that land uses are

consistent with the safety and functional operation of the State highway system. Currently, under existing conditions the intersection is exceeding the Oregon Highway Plan performance standard and vehicles spill back during the PM peak hour into the deceleration area on the ramp which is a safety concern. To ensure that the proposed zone change would not have a significant effect on the State highway intersection, the applicant has proposed a “trip cap” based on the reasonable worst case development for the existing IG1 zoning for 100 AM and 102 PM peak hour trips. While the proposed “trip cap,” if applied, would limit the transportation impact of redevelopment to the existing zoning such a condition would have to be administered by the City of Portland. Based on similar land use cases, the City of Portland has placed conditions on the zone change with a land use square footage cap equivalent to the “trip cap” which can then be administered as development occurs. ODOT recommends that the city include a condition of approval that would limit development of the site to the reasonable worst case trip generation under the existing IG1 zoning through establishing either a “trip cap” or land use type/square footage equivalent. This will ensure that the proposed zone change would not have a significant effect on the State highway system for purposes of the Transportation Planning Rule.

It is our understanding that the applicant has also requested that the “cap” be removed at the time the surrounding properties are rezoned legislatively to a comparable EG1/EG2 zone. Because it is not known at this time how the City of Portland will pursue legislative plan amendments for this area and what findings they will make relating to the Transportation Planning Rule, it is recommended that the City evaluate the “cap” removal as part of the future legislative process. [BDS Note: Zoning Code Section 33.700.110.B.1 states that if a site is subject to conditions as a result of a quasi-judicial zone change, the conditions continue to apply if the site is rezoned to a comparable zone as part of a legislative remapping. As such, it may not be possible to remove a condition related to a quasi-judicial zone change as part of a future legislative zone change.]

PBOT has considered the comments made by ODOT on this proposal, as well as the information submitted by the applicant, and provides the following findings and recommendation:

The applicant submitted a professionally prepared abbreviated site trip generation analysis prepared by a professional traffic consultant to address the transportation-related approval criteria associated with this Zone Change request. The analysis compares the potential worse-case development scenarios under the current IG1 zoning with the worse-case potential development scenarios for the proposed EG1 zoning.

The above referenced exercise was also prepared in relation to discussions that the applicant previously had with representatives from the Oregon Department of Transportation (ODOT) with respect to this agency’s early expressed concerns with the anticipated Zone Change request. ODOT has informed the applicant that the State’s local facility (I-5 OMSI - Central Eastside Industrial District exit off ramp at the SE Water Ave intersection [north of the subject site]) is exceeding the Oregon Highway Plan Mobility standard. Recent traffic counts indicate that vehicle volumes are quite high along with vehicle queues that spill back onto the mainline (I-5) which is a safety concern. Accordingly, given the operations of the above referenced interchange, ODOT expressed concerns over the proposed Zone Change. To address this issue, and, as equally relevant to the subject approval criterion, the applicant has proposed to limit the vehicular trip generation to the number of trips associated with the existing IG1 zoning.

In conjunction with the processing of a Zone Change request, PBOT staff would typically require that the applicant submit a Traffic Impact Study (TIS) to adequately address this approval criterion. The TIS would generally include area intersection capacity analysis utilizing industry standard trip generation methodology as well as a projected trip distribution consideration given observations made at and near the site. However, in this case, as mentioned above, ODOT has previously identified an issue with the current operations of a nearby State interchange and, in order to address this deficiency, the applicant has proposed the trip cap (associated with the current zoning of the site). Because the applicant's proposed mitigation would also address capacity deficiencies with any local (City) intersections [unexpected to be the case from PBOT's perspective], the applicant was advised from PBOT staff that no further analyses would be necessary to adequately address this approval criterion.

To estimate the number of trips that would be generated by a worse case development scenario under the existing IG1 zoning, data from the manual TRIP GENERATION, Ninth Edition, published by the Institute of Transportation Engineers (ITE) was referenced. Given the variety of development proposals considered by the applicant's traffic consultant, the development combination that resulted in the highest trip generation was a general light-industrial building (74,400 sf in area) and a sit down restaurant (3,000 sf). This development scenario was estimated to produce 100 weekday AM peak hour trips and 102 PM peak hour trips. For comparison purposes, under the proposed EG1 zoning, and specifically, under the intended development for the site (proposed elementary school and existing manufacturing), the combined estimated trip generation would be 41 weekday AM peak hour trips and 27 weekday PM peak hour trips. PBOT staff does not want to limit the applicant to the specific number of vehicle trips associated with the proposed development as this would be more restrictive than what could be allowed under the site's current zoning. Accordingly, a trip cap based on the aforementioned 100 weekday AM peak hour trips and 102 PM peak hour trips will be imposed.

With the provision of a trip cap, the site will not be allowed to exceed these referenced number of trips during the weekday AM and weekday PM peak hour with the approval of the proposed Zone Change. With each phase of development on the property, it will be necessary for City staff and the applicant (or future applicants) to conduct a trip generation assessment to confirm that the existing uses and proposed uses on site aren't and won't exceed the trip cap. A condition of approval related to implementing the trip cap is warranted and recommended.

The recently amended Transportation Planning Rule (effective January 1, 2012) generally requires a local government to determine whether certain regulatory amendments will "significantly affect an existing or planned transportation facility." The land use actions that trigger compliance with this requirement are amendments to a functional plan, comprehensive plan, or a land use regulation (including a Zoning Map Amendment). (OAR 660-012-0060(1)) If the local government finds an amendment has a significant effect, it must take one or more specifically identified steps to address and remedy this conflict. (OAR 660-012-0060(2))

The amended TPR includes an exception to this general requirement for a Zoning Map Amendment where the proposed new zoning is consistent with: (1) the comprehensive plan map designation for the site; and (2) the local Transportation

System Plan. If both conditions are satisfied, the local government may find that the amendment “does not affect an existing or planned transportation facility.” (OAR 660-012-0060(9)). In this case, the proposed EG1 zoning is consistent with the Comprehensive Plan Map designation for the site and the local Transportation System Plan. Accordingly, the above referenced approval criterion is satisfied.

Based on the above referenced analysis, PBOT has found that the applicant has demonstrated compliance with the applicable transportation-related approval criteria. PBOT is therefore supportive of the proposed Zone Change [with the following recommended condition of approval:]

Future redevelopment on the subject site will be limited to 100 weekday AM and 102 weekday PM peak hour trips. Future redevelopment submittals/plans on the subject site must include sufficient traffic analysis prepared by a professional traffic consultant to confirm that the maximum number of vehicle trips noted herein and associated with the future redevelopment project(s) will not be exceeded. Future elementary school development up to 6,956 sf in area and/or future manufacturing development up to 7,197 sf in area can be constructed without the need for the submittal of any traffic analysis.

These findings from ODOT and PBOT, with the recommended condition of approval, demonstrate that public services for transportation system facilities are capable of supporting the uses allowed by the proposed EG1 zone. BDS does recommend a modification to the wording of the condition regarding the trip cap. As proposed by PBOT, the condition does not address changes in use that may occur at the site that do not involve a redevelopment of the site. This could occur by placing new uses in the existing buildings on the site. Additional modifications to PBOT’s condition are recommended to clarify what changes to the site trigger the requirement for a traffic analysis. To address these concerns, BDS proposes revising the wording of the condition to read as follows:

The cumulative number of vehicle trips associated with new development, expansions in floor area to existing development, or changes in use that require a building permit will be limited to a maximum of 100 during the weekday AM peak hour and 102 during the weekday PM peak hour. Plans submitted to the City for new development, expansions in floor area to existing development, or changes in use that require a building permit must include sufficient traffic analysis prepared by a professional traffic consultant to allow PBOT staff to confirm that the maximum number of vehicle trips noted herein and associated with the proposed project will not be exceeded. The requirement to submit a traffic analysis does not apply to future elementary school development up to 6,956 square feet in area and/or future manufacturing development up to 7,197 square feet in area.

The Bureau of Planning and Sustainability (BPS) is currently in the process of updating the *Central City Plan* through the *Central City 2035* project. This project will likely result in Comprehensive Plan Map and/or Zoning Map changes in the Central Eastside area of the Central City. BPS estimates any map changes in the area done as part of this plan should be completed by 2015/2016. As noted above in ODOT’s response, because of these potential zone changes in the surrounding area, the applicant has requested that the trip cap limit be removed at the time surrounding properties are legislatively upzoned from IG1 to EG1/EG2. While it is possible that the *Central City 2035* project may remap properties in the surrounding area to a Mixed Employment

zoning designation (EG1 or EG2), that is not known at this time. Additionally, it is not known at this time what other Central City Plan District use or development standards BPS may apply in this area that may restrict the type or density of uses allowed. Because of this, BDS is not supportive of the applicant's request to automatically remove the trip cap limit following legislative map changes in the surrounding area. BDS can support a condition that allows the trip cap to be *reconsidered* following legislative map changes in the surrounding area that are adopted as part of the *Central City 2035* project. BDS recommends that the reconsideration of the trip cap be done as a Type II (unassigned) land use review, with the approval criterion limited to evaluating the transportation impacts of changing or removing the trip cap. The approval criterion would be the same transportation-related approval criterion used for a Zoning Map Amendment, and would read as follows:

Public services for transportation system facilities are capable of supporting the uses allowed by the zone or will be capable by the time development is complete. Transportation capacity must be capable of supporting the uses allowed by the zone by the time development is complete, and in the planning period defined by the Oregon Transportation Rule, which is 20 years from the date the Transportation System Plan was adopted. Limitations on development level or mitigation measures may be necessary in order to assure transportation services are adequate.

With the conditions proposed, public services for transportation system facilities are determined capable of supporting the uses allowed by the zone, and this criterion is met.

3. Services to a site that is requesting rezoning to IR Institutional Residential, will be considered adequate if the development proposed is mitigated through an approved impact mitigation plan or conditional use master plan for the institution.

Findings: As the request does not include rezoning the site to the IR zone, this criterion is not applicable.

C. When the requested zone is IR, Institutional Residential. In addition to the criteria listed in subsections A. and B. of this Section, a site being rezoned to IR, Institutional Residential must be under the control of an institution that is a participant in an approved impact mitigation plan or conditional use master plan that includes the site. A site will be considered under an institution's control when it is owned by the institution or when the institution holds a lease for use of the site that covers the next 20 years or more.

Findings: As the request does not include rezoning the site to the IR zone, this criterion is not applicable.

CONCLUSIONS

The request for a Zoning Map Amendment on the subject site from IG1 to EG1, with the retention of the Greenway and Scenic Resource overlay zones, is found to meet the applicable approval criteria. The applicant has demonstrated that the EG1 zone is the most appropriate of the two corresponding zones to the Mixed Employment Comprehensive Plan Map designation to map on the site, and that public services are adequate to accommodate uses and development allowed under the proposed EG1 zone. In order to meet the transportation-related approval criterion, a condition of approval is recommended that limits the total number of vehicle trips generated by uses at the site. A second recommended condition of approval will allow a

reevaluation of that trip cap at a future date following potential legislative zone changes in the surrounding area.

TENTATIVE STAFF RECOMMENDATION

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

Approval of a Zoning Map Amendment (Zoning Code Section 33.855.050) from General Industrial 1 (IG1) to General Employment 1 (EG1), with the retention of the River General Greenway and Scenic Resource overlay zones, subject to the following conditions:

- A. The cumulative number of vehicle trips associated with new development, expansions in floor area to existing development, or changes in use that require a building permit will be limited to a maximum of 100 during the weekday AM peak hour and 102 during the weekday PM peak hour. Plans submitted to the City for new development, expansions in floor area to existing development, or changes in use that require a building permit must include sufficient traffic analysis prepared by a professional traffic consultant to allow PBOT staff to confirm that the maximum number of vehicle trips noted herein and associated with the proposed project will not be exceeded. The requirement to submit a traffic analysis does not apply to future elementary school development up to 6,956 square feet in area and/or future manufacturing development up to 7,197 square feet in area
- B. The trip cap identified in Condition B can be reevaluated/removed as part of a future Type II (unassigned) land use review following legislative zone changes on surrounding properties that are adopted through the *Central City Plan 2035* project. The approval criterion for this review shall be as follows:

Public services for transportation system facilities are capable of supporting the uses allowed by the zone or will be capable by the time development is complete. Transportation capacity must be capable of supporting the uses allowed by the zone by the time development is complete, and in the planning period defined by the Oregon Transportation Rule, which is 20 years from the date the Transportation System Plan was adopted. Limitations on development level or mitigation measures may be necessary in order to assure transportation services are adequate.

Procedural Information. The application for this land use review was submitted on April 2, 2013, and was determined to be complete on April 24, 2013.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on April 2, 2013.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended 245 days. Unless further extended by the applicant, **the 120 days will expire on April 23, 2014.**

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

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

recommendation of the Bureau of Development Services with input from other City and public agencies.

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

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

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

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

Appeal of the decision: The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Hearings Officer, City Council will hold an evidentiary hearing, one in which new evidence can be submitted to them. Upon submission of their application, the applicant for this land use review chose to waive the 120-day time frame in which the City must render a decision. This additional time allows for any appeal of this proposal to be held as an evidentiary hearing.

Who can appeal: You may appeal the decision only if you write a letter which is received before the close of the record on hearing or if you testify at the hearing, or if you are the property owner or applicant. Appeals must be filed within 14 days of the decision. **An appeal fee of \$2,800 will be charged (one-half of the BDS application fee, up to a maximum of \$5,000.00).**

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

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline.

The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision. A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of approval. Zoning Map Amendments and Comprehensive Plan Map Amendment approvals do not expire.

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

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

Planner's Name: Douglas Hardy

Date: June 6, 2013

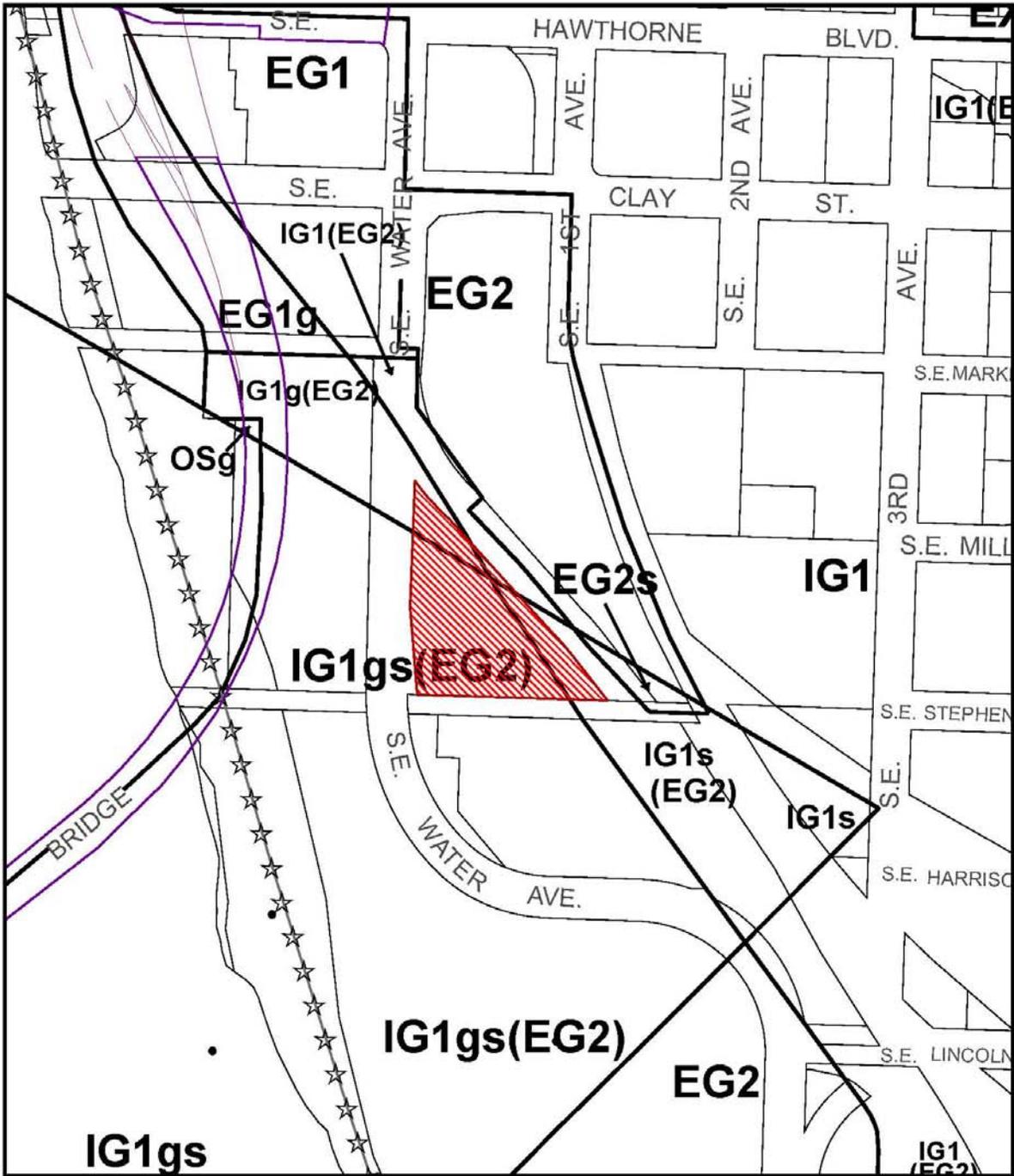
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 1. Written narrative
 2. 120-day waiver
- B. Zoning Maps (attached):
 1. Existing zoning
 2. Proposed zoning
- C. Plans & Drawings:
 1. Site plan (attached)
- D. Notification Information:
 1. Request for response

2. Posting letter sent to applicant
 3. Notice to be posted
 4. Applicant's statement certifying posting
 5. Mailing list
 6. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Portland Bureau of Transportation
 3. Oregon Department of Transportation
 4. Water Bureau
 5. Fire Bureau
 6. Police Bureau
 7. Bureau of Development Services Site Development Review Section
 8. Portland Parks & Recreation Urban Forestry Division
 9. Bureau of Development Services Life Safety Plans Examiner
- F. Correspondence:
1. Letter from Central Eastside Industrial Council, dated May 28, 2013
 2. E-Mail from Sue Pearce, HAND Chair, received May 29, 2013
- G. Other:
1. Original LUR application
 2. Excerpt from *Central City Plan*

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



ZONING

EXISTING



Site



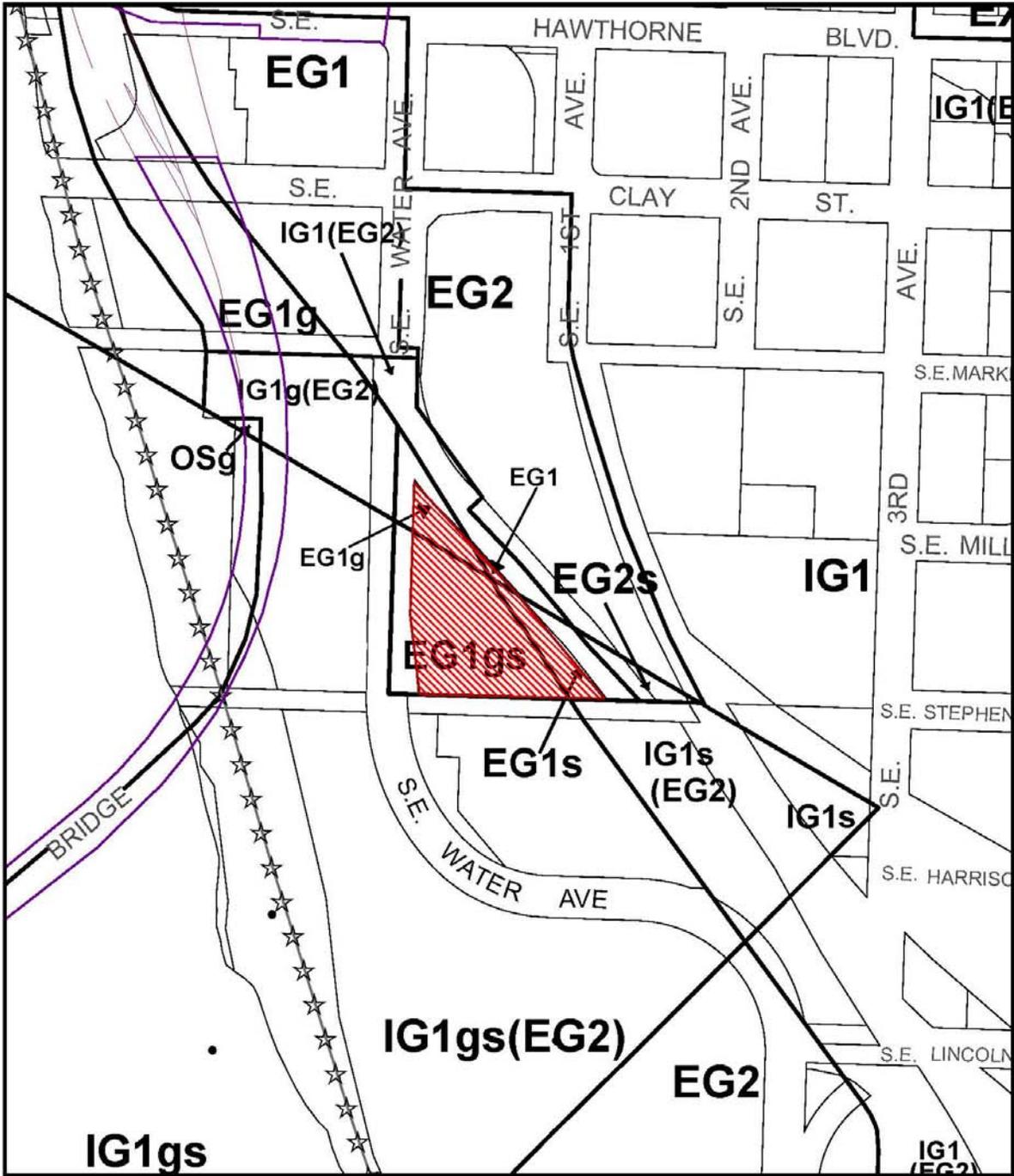
Historic Landmark



NORTH

This site lies within the:
CENTRAL CITY PLAN DISTRICT
CENTRAL EASTSIDE

File No.	LU 13-135145 ZC
1/4 Section	3230
Scale	1 inch = 200 feet
State_Id	1S1E03DA 1702
Exhibit	B1 (Apr 08, 2013)



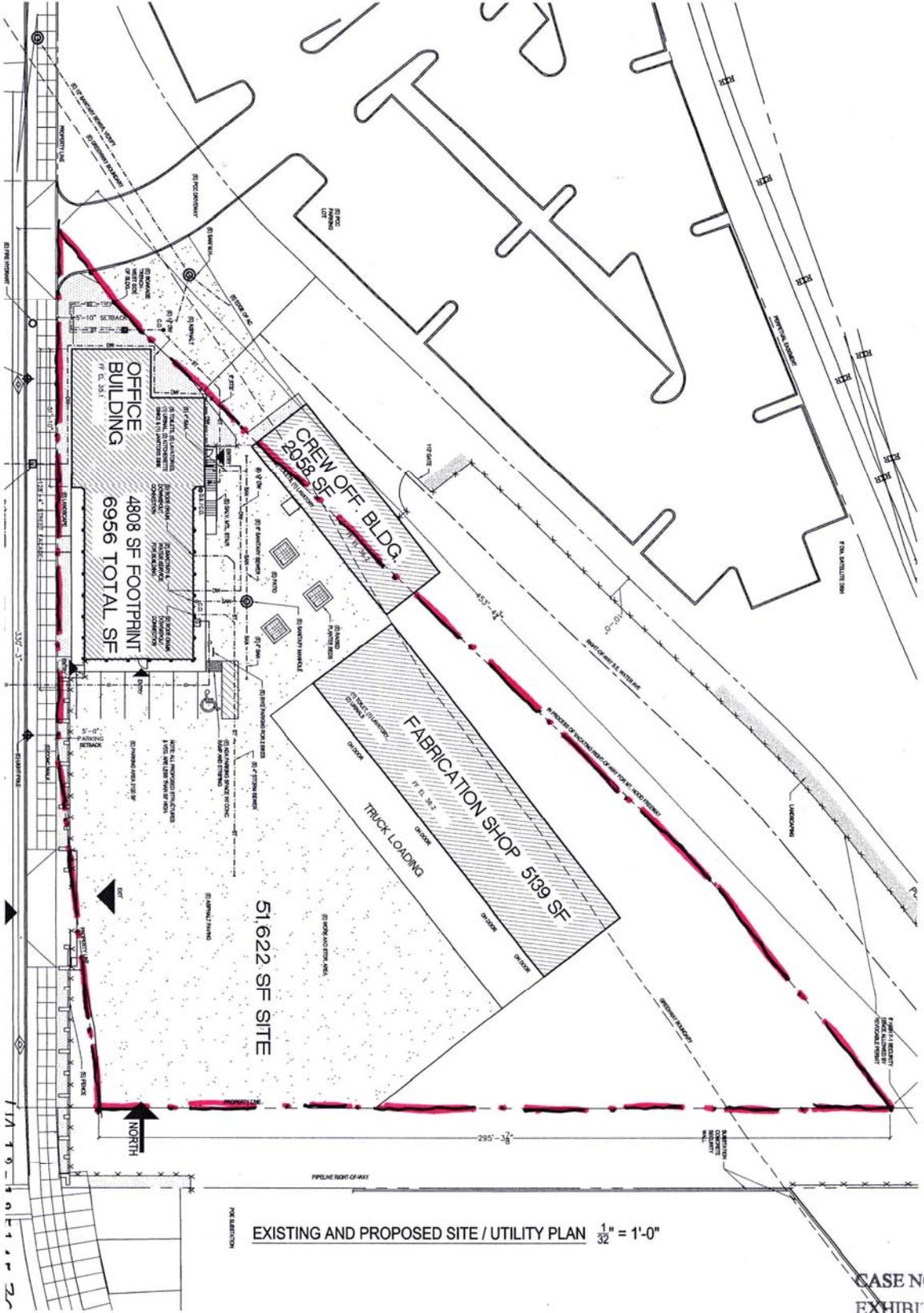
ZONING PROPOSED

-  Site
-  Historic Landmark



This site lies within the:
CENTRAL CITY PLAN DISTRICT
CENTRAL EASTSIDE

File No.	LU 13-135145 ZC
1/4 Section	3230
Scale	1 inch = 200 feet
State_Id	1S1E03DA 1702
Exhibit	B2 (Apr 25, 2013)



CASE NO. 13-13514520
 EXHIBIT C-1