



# City of Portland, Oregon

# **Bureau of Development Services**

# **Land Use Services**

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner 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 13-154170 ZC

2030 NW 17th Zoning Map Amendment

H.O. Case #: HO 4130022

**REVIEW BY: Hearings Officer** 

WHEN: Wednesday August 14th, 2013 @ 9:00 AM

WHERE: 1900 SW Fourth Ave., Suite 3000

Portland, OR 97201

It is important to submit all evidence to the Hearings Officer. City Council will not accept additional evidence if there is an appeal of this proposal.

BUREAU OF DEVELOPMENT SERVICES STAFF: MARK WALHOOD / MARK.WALHOOD@PORTLANDOREGON.GOV

# **GENERAL INFORMATION**

Contact/Counsel: Timothy Ramis

Two Centerpointe Drive, 6th Fl. Lake Oswego, OR 97035

**Applicant:** Thomas Brenneke

Guardian Real Estate Services 710 NW 14th Ave., 2<sup>nd</sup> Floor

Portland, OR 97209

**Property Owners:** Harley T. Johnson

P O Box 4405

Portland, OR 97208

Harley Johnson % Rapid Transfer & Storage

100 NE Farragut St. Portland, OR 97211

Site Address: 2030 NW 17TH AVE

Legal Description: TERMINAL BLOCK TL 200 LOT 17-21, WATSONS ADD; LOT 1-28 TL 100

LAND & IMPS SEE R298563 (R883805091) FOR BILLBOARD, WATSONS

ADD

**Tax Account No.:** R883805020, R883805090

**State ID No.:** 1N1E28DC 00200, 1N1E28DC 00100

Quarter Section: 2828

**Neighborhood:** Northwest District, contact John Bradley at 503-313-7574.

**Business District:** Pearl District Business Association, contact Adele Nofield at 503-223-0070.

**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Existing Zoning: IH (EXd), Central City plan district (Heavy Industrial base zone, Central

Employment base zone with Design overlay zone Comprehensive Plan Map

Designation)

Proposed Zoning: Exd, Central City plan district (Central Employment base zone with

Design overlay zone)

**Case Type: ZC** (Zoning Map Amendment)

**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 for two parcels comprising just over two acres of land, or 91,040 square feet. The site includes the majority of the 'block' that is bound by NW Front Avenue on the east, NW 17th Avenue on the west, and NW Sherlock Avenue (often referred to as Terminal Street) and railroad parcels to the south. Also part of that block, but not included in this application, is the Dockside Tavern parcel at 2047 NW Front Avenue, directly at the intersection of NW Front and 17th.

The site has the parenthetical Comprehensive Plan Map designation of EXd (Central Employment base zone with Design overlay zone), and this is the zoning request being made by the applicant. While site development plans are not being considered in this review, the applicant has proposed a couple of likely development scenarios to show what would be allowed under the proposed zoning. The intended development at this time would be mixed-uses with commercial/retail at the ground level and housing above. Two different scenarios have been modeled to evaluate transportation impacts: Scenario 1 with 60,000 square feet of ground floor retail and 290,000 square feet of office space, and Scenario 2 with 420 residential units.

Because the site is within Central City, the maximum development at the site under EXd zoning would be controlled by maximum floor area ratio (FAR), which is 2:1 at this site with a maximum potential bonus of 3:1 FAR, for a total of 5:1 FAR. A wide variety of uses is allowed under EX zoning, including commercial/retail, office, residential, and some light industrial uses. The Design overlay designation ensures that major new developments and many exterior changes to existing development require approval through the Design Review process.

The current IH zoning does not allow residential or multiple commercial or office uses on one site. Therefore, to change the zoning as contemplated by the Comprehensive Plan Map designation to EXd, the applicant has requested a Zoning Map Amendment.

**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 at **33.855.050.A-D**, *Zoning Map Amendment Approval Criteria*.

# **ANALYSIS**

**Site and Vicinity:** The site is a large irregular parcel sandwiched between an abandoned rail line and the roadway in NW Front Avenue on the east, by NW 17<sup>th</sup> Avenue on the west, and by Terminal/Sherlock Street on the south. The site is industrial in nature and appearance, with two pole barn structures in the middle of the site, gravel storage and parking areas, perimeter chain link fencing on the south portion of the site, and several storage containers on the site. The northernmost portion of the site, immediately south and west of the adjacent Dockside Tavern building on the same block, serves as a gravel surface parking lot for the Dockside Tavern. There is little to no landscaping on the site, other than perimeter weedy shrubs and grasses that have

grown up near the fence at the site perimeter. A large freestanding double-faced billboard structure is located near the center of the site along the eastern edge, abutting NW Front Avenue.

The surrounding area has a mixed and diverse character, sitting as it does on the edge between the bustling mixed-use Pearl District to the south, and the older traditional industrial and marine harbor industrial sites to the north. The Riverscape townhomes and the Pacifica Condominium project just to the east across NW Front Avenue are fairly typical of the type and style of development that occurs to the south of the site in the Pearl District, although the immediately adjacent blocks at the north end of the Pearl just south of the site remain mostly undeveloped. There is a small retail node just west of the site along NW Thurman Street near NW 18th Avenue, but the majority of other uses to the west and north of the site are industrial warehouse or manufacturing type uses.

The adjacent rights-of-way in NW Front and 17th Avenue are improved with paved two-way roadways and curbing, but formal sidewalks only exist on a portion of the southern west site perimeter at NW 17th Avenue. Along NW Front Avenue, and on the north portion of NW 17th Avenue, there is a curb marking the edge of the roadway, and an asphalt paving surface, but no concrete sidewalk built to city standards or street trees. The southern right-of-way parcel identified on maps as NW Sherlock or NW Terminal Street is a curving gravel stretch of land visually indistinguishable from the south edge of the site, and there is no physical barrier or condition change to mark the transition from the on-site container storage and work areas and this public right-of-way.

**Zoning:** The Heavy Industrial (IH) base zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where all kinds of industries may locate including those not desirable in other zones due to their objectionable impacts or appearance. The development standards are the minimum necessary to assure safe, functional, efficient, and environmentally sound development. The requested Zoning Map Amendment would remove this designation from the site.

The Central City plan district addresses specific situations existing in the central city area, and includes various use regulations and development standards which implement various plans applicable to the downtown area. No changes are proposed to this plan district or the district boundary, which will remain in place after the requested Zoning Map Amendment.

The Central Employment (EX) base zone implements the Central Employment map designation of the Comprehensive Plan. The zone allows mixed uses and is intended for areas in the center of the City that have predominantly industrial type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area. The Design overlay zone always accompanies the EX base zone, and imposes a requirement that new projects and most exterior alterations receive prior approval through a Design Review procedure.

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

**Agency Review:** A "Request for Response" was mailed **July 12, 2013**. The following Bureaus have responded with no issues or concerns:

The *Bureau of Environmental Services* (BES) has reviewed the proposal and determined that the information provided by the applicant is sufficient to meet BES sanitary waste and stormwater disposal system approval criteria for the requested Zoning Map Amendment. The proposed development will be subject to BES standards and requirements during future building permit review procedures, but BES has requested no conditions of approval for the zone change. Exhibit E.1 contains staff contact and additional information.

The *Development Review Section of Portland Transportation* has reviewed the proposal and responded with a detailed response evaluating the Traffic Impact Study submitted by the applicant. Portland Transportation has found that the relevant transportation-related approval criterion can be met through imposition of two conditions of approval. Their response is included in this report later under the findings.

Public street improvements to be required during the building permit stage, separate from the land use review or approval process, must meet and include the following:

## **TITLE 17 REQUIREMENTS**

# Transportation System Development Charges (Chapter 17.15)

System Development Charges (SDCs) may be assessed for this development. The applicant can receive an estimate of the SDC amount prior to submission of building permits by contacting Rich Eisenhauer at 503-823-6108.

#### Driveways and Curb Cuts (Section 17.28)

Curb cuts and driveway construction must meet the requirements in Title 17. The Title 17 driveway requirements will be enforced during the review of building permits. Be advised that PBOT will not allow access to the site from NW 17<sup>th</sup> Ave if it affects the River District Quiet Zone status. PBOT will also not allow access to the NW Terminal St or NW Upshur Ave rights-of-way.

### **Street Improvements and Dedication** (Section 17.88)

NW Terminal St

Unless vacated, the applicant will be required to rebuild the street and frontage to current City standards and dedicate 17-feet of property.

#### NW Upshur St

Unless vacated, the applicant will be required to build a half-street and the sidewalk corridor to current City standards and dedicate 2-feet of property.

#### NW 17th Ave

The applicant will be required to rebuild the ~45-ft of sidewalk corridor that does not meet City standards. No dedication will be required.

#### NW Front Ave

The applicant will be required to rebuild the frontage to current City standards. Assuming that a "road diet" is implemented, 6-feet of dedication will be required between 15<sup>th</sup> Ave an 16<sup>th</sup> Ave and 0.5-feet of dedication will be required between 16<sup>th</sup> Ave and 17<sup>th</sup> Ave. If a "road diet is not implemented, then the dedications will be greater by 11-feet. Implementation of the "road diet" including striping, signing and signal changes will be the responsibility of the applicant and will be required to be a corridor treatment from approximately 400-feet west of 17<sup>th</sup> Ave to 9<sup>th</sup> Ave.

## NW 17th Ave & Front

The applicant will be required to rebuild the SE corner of the intersection. Additional dedication may be required.

Exhibit E.2 contains staff contact and additional information.

The *Water Bureau* has reviewed the proposal and offered no objections or concerns regarding the proposed Zoning Map Amendment, and has provided technical details on water services and permitting requirements that will apply during development of the site. This information is included in the findings for public service availability, later in this report. Exhibit E.3 contains staff contact and additional information.

The *Fire Bureau* has reviewed the proposal and has no concerns regarding the availability of fire services or the requested change in zoning. All applicable Fire Code requirements must be met at the time of permit review and development. Exhibit E.4 contains staff contact and additional information.

The *Police Bureau* has reviewed the proposal and determined that they are capable of serving the proposed use at this time. A request to coordinate with the Central Precinct Commander as development progresses at the site has been included, but not as a condition of approval for the zone change. Exhibit E.5 contains staff contact and additional information.

The Site Development Section of Bureau of Development Services has reviewed the proposal and provided technical details and regulatory requirements, but no objections or conditions of approval regarding the requested zone change. A geotechnical report will be required at the time of building permit review for the project, the site is not located in the 100-year floodplain or the Potential Landslide Hazard Area, and city records do not show the presence of any abandoned septic system on the site. Erosion control and stormwater disposal methods will be reviewed in greater detail during the building permit process. Exhibit E.6 contains staff contact and additional information.

The *Urban Forestry Division of Portland Parks and Recreation* has reviewed the proposal and responded without objections or concerns. Exhibit E.7 is a hard copy record of their electronic 'no concerns' response.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on July 25, 2013. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## **ZONING CODE APPROVAL CRITERIA**

#### 33.855.010 Purpose of Zoning Map Amendments

This chapter states the procedures and approval criteria necessary to process an amendment to the base zones, overlay zones, plan districts, and other map symbols of the Official Zoning Maps. The chapter differentiates between amendments which are processed in a quasi-judicial manner and those processed in a legislative manner. A discussion of quasi-judicial and legislative is found in 33.700.070.

#### 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 EX zone is the only corresponding zone for the EXd Comprehensive Plan Map designation in place at the site. *Therefore, this criterion does not apply.* 

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:** There are no R-zoned lands or Buffer overlay designations at the site. *Therefore, 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:** The proposal does not involve residential zones, nor a change from the CM zone to the CS zone. *Therefore, this criterion does not apply.* 

- **B. Adequate public services**. Public services for water supply, transportation system facilities 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, and proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services.
  - 1. Adequacy of services applies only to the specific zone change site.
  - 2. Adequacy of services is 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.
    - b. Proposed sanitary waste disposal and stormwater disposal systems area 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.
    - 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:** The findings below for adequacy of services have been applied only to the specific zone change site.

Public services for <u>water supply and capacity</u> are available to the site from five service locations from the existing water mains in both NW 17<sup>th</sup> Avenue (two service locations) and NW Front Avenue (three service locations). These five services may potentially be used to provide water to the new development but will need to be reviewed by the Water Bureau if the applicant decides to keep any of the five current service lines. City of Portland Title 21.12.010 will apply, and will require any new building or construction to have a water service and meter of appropriate size installed within the public right-of-way and within the specific property

boundary/frontage for which it will serve. A Water Bureau review for fixture count will need to be submitted by the applicant at the time of building permit application to appropriately size any of the retained or new water services and meters for this location. If a water service and/or meter size upsize is required, all applicable costs will be the responsibility of the applicant. A separate service will be required for each building, even if under one ownership and on the same lot or parcel of land. If a single service will be used to provide for multiple units under single ownership, a separate service agreement will need to be signed with the Water Bureau prior to Water Bureau approval of the building permit or sale of any water services to the project. Also, the service connection to a parcel of land shall not be used to supply an adjoining parcel of a different owner, or to supply a separate parcel of the same owner for which proper application for service has not been made - service connections are considered as supplying the parcel of land for which it enters directly. A tax lot consolidation will need to be completed prior to the Water Bureau signing off on any building permits and/or selling water service to this development. These permitting requirements are standard requirements and will apply to future development regardless of the underlying zoning. Therefore, because the Water Bureau has found that public services with regards to water supply and capacity are adequate, this criterion is met for water supply and capacity issues.

Public services for <u>police protection</u> have been found to be adequate for the requested zone by the Portland Police Bureau. The Police Bureau has estimated that the projected workload impact for the Police Bureau if the site is developed to the maximum potential would be .75 FTE, based on an analysis of the likely per-person police service impacts as evaluated by the Police Bureau. While services were found to be adequate, the Police Bureau makes the request that as development progresses at the site, the on-site persons and developer work with the Central Precinct Commander on any public safety issues or concerns that arise. *Therefore, because the Police Bureau has found that police protection services are adequate to serve the proposed zoning, this criterion is met for police protection issues.* 

Public services for <u>fire protection</u> have been found to be adequate for the requested zone by the Portland Fire Bureau. The Fire Bureau will review the proposal during the building permit process for applicable Fire Code regulations and requirements, but does not object to the proposed re-zoning. *Therefore, because the Fire Bureau has found that fire protection services are adequate to serve the proposed zoning, this criterion is met for fire protection issues.* 

Public services for sanitary waste disposal and stormwater disposal systems have been determined to be sufficient for the proposed zone change by staff at the Bureau of Environmental Services (BES), without imposition of any conditions of approval. There are sanitary sewers in NW Front Avenue that can serve the needs of the proposed project, with connection requirements and facilities design standards to be determined and further evaluated during the building permit process. Similarly, there are two public storm-only sewers that can serve the stormwater disposal needs of the project in adjacent streets, although all development proposals must comply with the City of Portland Stormwater Management Manual during permit review and at time of development. Staff at BES recommends that the applicant begin and get to a successful 30% design review process with the necessary public works permitting process for public right-of-way improvements prior to submitting for the Design Review process. Improvements along the south edge of the site will depend on whether or not NW Terminal/Sherlock is vacated or maintained as public right-ofway through the (separate) Street Vacation process. There are sewer easements on the site that should be identified on site plans submitted for land use review and

permitting. Additional technical details and permitting requirements have been included in the full response (Exhibit E.1), but these apply regardless of the zoning on the site being considered in this application. Therefore, because the Bureau of Environmental Services has found that public services for sanitary waste and stormwater disposal systems are sufficient, this criterion is met for sanitary waste/stormwater disposal issues.

Public services for <u>transportation system facilities</u> have been reviewed by staff at Portland Transportation (PBOT). The applicant has submitted a Traffic Impact Study (TIS) prepared by Lancaster Engineering that addresses the transportation-related approval criteria. For the purposes of this study NW Front Ave is referred to as an east-west street. The TIS compares "reasonable worst case scenarios" for development under the existing zoning and proposed zoning in the year 2027 which is 20 years from the adoption of the Transportation System Plan (TSP). The TIS assumes that all access to the site will be taken from one driveway to Front Ave which will align with NW 16<sup>th</sup> Ave becoming the fourth leg of that intersection. The TIS also assumes a "road diet" will take place on Front Ave. This is reduction from 2 lanes to 1 lane in the eastbound direction on Front Ave and is a configuration recommended in the Pearl District Access and Circulation Plan adopted by City Council June 13, 2012. This results in a conservative analysis for level of service of the transportation system. Both assumptions are acceptable to PBOT for the purpose of evaluating this zone change request.

Services for automobiles is deemed adequate if Portland Bureau of Transportation (PBOT) standards for level of service (LOS) are met for all of the intersections that would be affected by development on the site. The PBOT standard for unsignalized intersections is LOS E and for signalized intersections is LOS D. The intersections that would potentially be affected by development at this site are NW 15<sup>th</sup> Ave & Front Ave/Naito Pkwy, NW 16<sup>th</sup> Ave & Front Ave, and NW 17<sup>th</sup> Ave and Front Ave.

Intersection capacity analyses were performed in preparing the TIS for the three intersections to determine if LOS standards are met today and if they would be met under the existing and proposed zoning in the year 2027. The study found that the signalized intersections of NW 15<sup>th</sup> Ave and 17<sup>th</sup> Ave with Front Ave met and would continue to meet LOS standards in the future under either zoning. The study found that the stop controlled intersection of NW 16<sup>th</sup> Ave with Front Ave meets LOS standards today and would continue to meet them in a worst case scenario development under the existing zoning. However, the intersection would require mitigation in the form of traffic signal installation to meet LOS standards in a worst case scenario development under the proposed zoning.

The need for a traffic signal at NW 16th Ave & Front will depend on the level of development that occurs under the proposed zoning. According to the TIS a signal will likely be warranted if it generates approximately 300 exiting trips during the PM peak hour. Since there is no development proposed at this time and need for mitigation cannot be determined without knowing what the development will be, PBOT will require a signal warrant and LOS analysis to be performed and submitted with any future building permit for the site. This will be a condition of approval for the zone change.

## Pedestrians and Cyclists

The zone change will not affect adequacy of services for pedestrians and cyclists. However at the time that development is proposed via application for a building permit, street improvements and dedication will be required. These improvements

will include a 12-foot sidewalk corridor and 6-foot bike lane on the south side of Front Ave. In this way, adequacy of pedestrian and cyclist services will be improved. *Freight* 

The zone change will not affect the adequacy of services for freight. The intersection street corner abutting the property at 17<sup>th</sup> & Front will be required to accommodate truck turns as a condition of building permit approval since the site is located in a freight district. Lane widths will be required to be a minimum of 11-feet wide. In this way adequacy of freight services will not be affected.

#### **Transit**

There is one bus lines that operates along NW Front Ave with stops at NW 17<sup>th</sup> Ave. Service will not be affected by the zone change or development of the site.

## **Emergency**

Neither the zone change nor future development will affect emergency services.

### Oregon Administrative Rule

Transportation Planning Rule 660-012-0060

- (9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.
- (a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;
- (b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and
- (c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.

PBOT agrees with the findings per the TIS submitted by Lancaster Engineering below.

"The subject property is proposed to be zoned Central Employment with a design overlay (EXd), which is consistent with the designation given to the property in the Comprehensive Plan. The proposed zone change does not require a revision to the Comprehensive Plan map. The City of Portland has an acknowledged TSP that considers urban development under that Comprehensive Plan designation. The subject site has been within the Urban Growth Boundary for many years, and was not exempted from the rule as described in subsection (c) above. Accordingly, Section 9 of the TPR quoted above is satisfied and the local government may therefore find that there is no "significant affect" and the TPR is satisfied."

In summary, Portland Transportation recommends approval of the zone change subject to the following conditions of approval:

1. For each building permit for new development submitted for the site, the applicant shall submit a trip generation letter from an Oregon licensed traffic engineer that includes PM Peak Hour trips. Each subsequent building permit for additional development must include a cumulative count of PM Peak Hour trips.

- Trip generation must be based on the latest edition of the ITE Trip Generation Manual. Once site development reaches 300 exiting PM Peak Hour trips, the applicant must submit signal warrant and LOS analyses. The analyses must be performed by a licensed Traffic Engineer.
- 2. If installation of a traffic signal is determined necessary by the City Traffic Engineer, then the applicant will be required to install a traffic signal as a condition of the building permit approval. Performance guarantee, contract and fees must be provided to Public Works' satisfaction prior to PBOT building permit approval.

Therefore, with the condition of approval as requested by PBOT regarding xxx, this criterion can be met for transportation system facilities issues.

SUMMARY FINDING: All relevant public services under this criterion have been reviewed and considered by the applicable City of Portland service bureaus. Services have been found to be adequate with two transportation-related conditions of approval as requested by PBOT. With the noted conditions of approval, this criterion is met.

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: The proposal does not involve a request for the IR zone. Therefore, this criterion does not apply.

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:** The proposal does not involve a request for the IR zone. Therefore, this criterion does not apply.

**D. Location.** The site must be within the City's boundary of incorporation. See Section 33.855.080.

Findings: The site is within the incorporated boundaries of the City of Portland. Therefore, this criterion is met.

#### **DEVELOPMENT STANDARDS**

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

# CONCLUSIONS

The applicant has proposed a re-zoning on the site, in conformance with the Comprehensive Plan Map designation, from the Heavy Industrial (IH) to Central Employment (EXd) base zoning. The Design overlay zone always follows the EX base zone, as indicated on the Comprehensive Plan Map. After consideration by the service bureaus, public services with regards to water supply, fire and police protection, sanitary disposal, and stormwater management have been determined to be adequate for the development potential created by the re-zoning. Two conditions of approval regarding trip generation reports during permitting and possible future traffic signal installation have requested by Portland Transportation to ensure adequacy of transportation system facilities. Since public services are adequate for the rezoning, and because the site is within the city's boundaries of incorporation, with the transportation-related conditions of approval all the applicable criteria are met and the request should be approved.

#### 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, in conformance with the Comprehensive Plan Map designation, from the Heavy Industrial base zone (IH) to a Central Employment base zone with Design overlay zone (EXd), subject to the following conditions of approval:

- A. As part of the initial building permit or land use application submittals, the following condition of approval must be noted on each of the required site, utility, and civil or right-of-way improvement plan sheets. The sheet on which this information appears must be labeled " REQUIRED CONDITION OF APPROVAL B & C - Case File LU 13-154170 ZC."
- B. For each building permit for new development submitted for the site, the applicant shall submit a trip generation letter from an Oregon licensed traffic engineer that includes PM Peak Hour trips. Each subsequent building permit for additional development must include a cumulative count of PM Peak Hour trips. Trip generation must be based on the latest edition of the ITE Trip Generation Manual. Once site development reaches 300 exiting PM Peak Hour trips, the applicant must submit signal warrant and LOS analyses. The analyses must be performed by a licensed Traffic Engineer.
- C. If installation of a traffic signal is determined necessary by the City Traffic Engineer, then the applicant will be required to install a traffic signal as a condition of the building permit approval. Performance guarantee, contract and fees must be provided to Public Works' satisfaction prior to PBOT building permit approval.

**Procedural Information.** The application for this land use review was submitted on May 14, 2013, and was determined to be complete on Jul 2, 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 May 14, 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 did not waive or extend the 120-day review period. Unless further extended by the applicant, the 120 days will expire on October 30, 2013.

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, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Who can appeal: You may appeal the decision only if you write a letter which is received before the close of the record for the hearing, if you testify at the hearing, or if you are the property owner/applicant. Appeals must be filed within 14 days of the decision. Appeals must be filed within 14 days of the decision. An appeal fee of \$2,800.00 will be charged (one-half of the BDS application fee, up to a maximum of \$5,000).

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.** Zone Change 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: Mark Walhood

Date: August 2, 2013

#### **EXHIBITS**

#### NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements:
  - 1. Original narrative package with all appendices, traffic impact study, etc.
  - 2. Updated stormwater memo from applicant to staff, including related staff e-mail correspondence, June 12-June 27, 2013
  - 3. Revised traffic impact study from applicant to staff, received June 27, 2013
- B. Zoning Maps:
  - 1. Existing Zoning (attached)
  - 2. Proposed Zoning (attached)
- C. Plans & Drawings:
  - 1. Tax Map/Site Plan (attached)
- D. Notification information:
  - 1. Request for response
  - 2. Posting information and notice as sent to applicant
  - 3. Applicant's statement certifying posting
  - 4. Public hearing mailed notice
  - 5. Public hearing notice and mailing list
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Development Review Section of Portland Transportation
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Police Bureau
  - 6. Site Development Section of Bureau of Development Services
  - 7. Urban Forestry Division of Portland Parks and Recreation
- F. Letters: (none received at time of staff report publication)
- G. Other:
  - 1. Original LU application form and receipt
  - 2. Completeness review documents
  - 3. Pre-Application Conference summary notes, EA 13-119015 PC
  - 4. Incomplete letter from staff to applicant, sent June 7, 2013

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).