



BUILDING CODE | ACCESSIBILITY | FIRE EXPERTS

A Minority-Owned Business

Office Locations: OR | WA | NY | TN | CO

Main Phone Attendant: 503-488-5651

To Appellant:

The fee, relevant drawings (**exclusive of any plans submitted for permit processing**) and any supplemental information must be submitted with these forms. Checks are to be made payable to "Treasurer, City of Portland". Fees are listed below:

\$238 for one and two family dwellings
Plus \$119 each for each appeal item over four

\$477 for all other conditions (four appeal items or less)
Plus \$119 each for each appeal item over four

All appeal applications must be received by 9 a.m. Thursday to be heard the following Wednesday. In most cases, appeals submitted by this deadline will be considered the following Wednesday. However, an appeal may be deferred to a later date depending on the number of appeals scheduled, the complexity of the appeal, or other unforeseen factors. Appeal decisions are emailed and are also usually available the following day at http://www.portlandoregon.gov/bds/34196#cid_105523, or by calling the Appeal Board Support Staff at (503) 823-7335.

Project Information (questions in **BOLD** cannot be left blank):

Type of Appeal (pick one)

- Building Electrical
- Plumbing Fire (see special instructions)
- Mechanical

Project Type (pick one)

- One & Two Family Residential
- Commercial
- LUR

This appeal involves (check at least one below)

- Erection of a new structure Reconsideration of Appeal ID # _____
- Alteration of an existing structure Change of Occupancy: from _____ to _____
- Addition to an existing structure Other (specify): _____
- Correction of a violation

Proposed Use of Structure (e.g., single-family dwelling, office, etc.) Office

Building/Business Name: The Weatherly Building

Project Street Address 500-534 SE Morrison St

Legal Description – Lot _____ Block: _____ Addition: _____

Owner's Name UPG Weatherly Property Owner LLC

Owner's Address 111 SW 5th Ave #1250, Portland, OR 97204

Related Permit Application #, LUR Case #, or if none, check Preliminary

Permit # _____ LUR Case # _____ Preliminary

Number of stories 12 **Occupancy Group** A, B, M and S-2 **Construction Type** IA

Fire Sprinklers No Yes > Location: Throughout

Plans Examiner/Inspector assigned to project Jeff Rago

Payment Options: (pick one)

- Payment by Mail Online Payment Payment in Person

Plan Submittal Options: (pick one)

Mail

Attach PDF

List Attachments: _____

I am the property owner, or the property owner's agent. In accordance with City Code Section 24.10.075, I am authorized to submit an appeal for an alternative material, design or method of construction or equipment or a modification to the strict interpretation of the Building Code as adopted by the City of Portland as outlined in the attached information. I hereby acknowledge that the City is not liable for any damages that result from or relate to any formal decision rendered by the City with respect to this appeal.

Appellant Name	<u>Tom Jaleski</u>	Firm Name	<u>Code Unlimited, LLC</u>
Address	<u>13515 SW Millikan Way</u>	City	<u>Beaverton</u> State <u>OR</u> Zip <u>97005</u>
Phone	<u>971-238-5266</u>	Email	<u>tom.jaleski@codeul.com</u>

Code Section being appealed:

1019 OSSC, 102.6 Existing structures.

Requirements:

Please describe the requirements of the code section listed above.

102.6 Existing structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as otherwise specifically provided in this code.

Code Modification or Alternate Requested:

Summarize the intent of the appeal, preferably in one sentence.

This appeal is intended to demonstrate that the Weatherly building is a legally permitted structure with continued legal occupancy based on compliance with a 1989 FM 41 Agreement and a 2005 FM 41 Agreement Extension.

Proposed Design:

Describe the alternate methods or materials of construction to be used or that exist. (Be as specific and detailed as possible). If this is a Reconsideration of an appeal, enter the original appeal text, followed by a section titled "Reconsideration Text" along with new language.

The Weatherly is a 12-story vintage high-rise completed in 1928 by architects Sutton & Whitney for Portland's legendary ice cream wholesaler George Warren Weatherly. The Weatherly was the first high-rise building on the Eastside. Occupancy classifications include A, B, M and S-2. Fire sprinklers have been retroactively installed throughout in accordance with a 1989 FM 41 agreement.

The building is a legally existing structure that has benefited from an FM 41 Agreement between the owners and the City of Portland that is currently in place and still active. It was first established in 1989 and extended in 2005. The FM 41 agreement and FM 41 extension allowed the building to deviate from the prescriptive code provisions and still be considered compliant with the code requirements at the time alterations were being made to the building. The City is replacing these FM 41 Agreements with an appeal as the more appropriate and formal process for documenting alternate to the prescriptive code requirements.

This appeal will document the allowances granted by the existing FM 41 agreements and approved through this appeal to continue on a permanent basis for the life of the building. Per the original FM 41 agreement, "The City acknowledges that numerous renovations will probably occur over the years and that so long as building permits are obtained for such renovations, the existence of numerous such renovations will not alone create any noncompliance with this Agreement." Based on this mutual agreement, a new code provision will not be retroactively applied to the building.

The building is currently courting new tenants. Floors 8, 9, 10, and 12 have been stripped down to the concrete structure, and the owner intends to do the same with other floors as well.

The following consists of 1) improvements to the building already completed, 2) improvements still required to be completed, and 3) allowances granted by the FM 41 agreement. Completed improvements were verified on September 2, 2004 and recorded in the 2005 agreement.

1) Improvements already completed are:

Sprinkler System Improvements.

- Complete automatic sprinkler system per NFPA 13 is installed.
- Sprinklers not required in interstitial space above suspended ceiling when combustibles are limited to low voltage communication cable.
- Unoccupied area above the twelfth floor is allowed to be used for storage and for elevator machine room, sprinklers are not required. Only non-combustible storage allowed in the machine room.
- Inspectors test and main drain assembly provided on each floor. Floor control valve provided with tamper switch and a water flow switch shall be provided to annunciate water flow by floor.
- Existing fire pump arrangement allowed to continue based on test demonstrating ability to deliver 250 gpm at 65 psi at the highest floor level. A test loop has been installed. Fire pump automatically starts upon sprinkler flow and continues to run until manually shut down.
- A double check valve assembly added to the supply side of the pump feeding tweet stand pipe riser that also supplies the sprinkler system.
- Existing fire department connection was modified to supplement both the basement sprinklers and the wet standpipe supplying the new sprinkler system.

Fire Alarm System Improvements.

- Fire alarm control panel capable of receiving two signals per floor.
- An annunciator that identifies alarm by floor located in the main building lobby as agreed to by Portland Fire & Rescue.
- Means of transmitting the alarm signal off premises to an approved central station receiving facility.
- A means of sounding the alarm on each floor activated by the sprinkler water flow.

Emergency Exit System Improvements.

- Emergency lighting activated upon loss of normal electrical power and sufficiently illuminating the exitway.
 - Fire escape shall be maintained as an emergency exit and access provided by a break glass type panel.
- 2) At a 2021 meeting, the City of Portland asked that the design team extend fire alarms into each tenant space. This process is currently underway, and fire alarms will be extended into each tenant space as part of each upcoming tenant improvement.
- 3) In exchange for the Owner's agreement to install sprinklers, the City will except continued use of the following Building components/features:
- Non-rated corridor, door and ceiling construction with unprotected wall penetrations and with unlimited glazing of tempered or laminated relites. Replacement of doors may be by a comparable door to the existing and shall be smoke gasketed. No additional hardware (latches, locks, closures, etc.) will be required on existing doors. No additional doors will be required for exiting on any floor as presently configured;
 - Dead end public corridors in excess of 20 feet shall be allowed to continue;
 - Discontinuous corridors within tenant space, provided a continuous path of egress is maintained between exits on multi-tenant floors and around the perimeter of the core, on single-tenant floors;
 - Use of the existing stairways and the lobby as an accepted means of exit;
 - The basement shall be allowed to have only one exit provided the occupant load never exceeds 30 (the occupant load in the basement exceeds 30, and a second exit will be added);
 - The basement under the annex area to the east shall not be required to have a second exit provided the area remains sprinklered and is used for storage only;

In addition, the city will not require any of the following:

- A fire alarm system, except for the sprinkler system tamper switches, annunciation, on-site water flow and central station reporting;
- Any smoke detector coverage;
- Public address and fire department communications systems;
- Any emergency power system. There is no emergency power available now to the fire pump, and none shall be required.
- Smoke detectors in the corridors;
- Magnetic door holders and closers on corridor doors;
- Elevator improvements of any kind, including without limitation elevator car recall capability or emergency telephones in the elevator cars, are not regulated by the City of Portland and are therefore outside the scope of this agreement.

- Changes in the heating, ventilating and air conditioning system;
- Window protection for the fire escape;
- Smoke control systems;
- Compartmentalization, areas of refuge or horizontal exiting;
- Pressurized elevator shafts and stair enclosures.

Reason for Alternative:

Describe why the alternate is required and how it will provide equivalent health, accessibility, structural capacity, energy conservation, life safety or fire protection to what the code requires). If this is a Reconsideration of an appeal, enter the original appeal text, followed by a section titled "Reconsideration Text" along with new language.

This appeal places the FM 41 Agreement and FM 41 Agreement Extension into appeal format to establish the approved legal occupancy of the Weatherly Building. These agreement remain in full force and is accepted as evidence of the continued legal occupancy of the building in support of this appeal. The text of the appeal follows exactly as it was agreed in the original agreement, except as modified in the 2005 extension, and modified for clarity as necessary.

We ask that you grant this appeal to ratify the FM 41 Agreement, the FM 41 Agreement Extension, and the approval of the building as a legally permitted structure.