



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**  
FROM CONCEPT TO CONSTRUCTION

Dan Ryan, Commissioner  
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**Date:** March 28, 2022  
**To:** Interested Person  
**From:** Amanda Rhoads, Land Use Services  
503-865-6514 / Amanda.Rhoads@portlandoregon.gov

## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 21-071862 AD**

#### **GENERAL INFORMATION**

**Applicant:** Stewart Straus | Stewart Gordon Straus Architect  
3800 SW Cedar Hills Blvd Suite 226 | Beaverton, OR 97005  
503-672-7517 | sgs@s-straus.com

**Owner/Owner Rep:** Madison Water, LLC  
Attn: Jeffrey Weitz  
819 SE Morrison St #110 | Portland, OR 97214

**Site Address:** 60 SE MADISON ST

**Legal Description:** BLOCK 12 LOT 1 N 30' OF LOT 2, EAST PORTLAND  
**Tax Account No.:** R226500550  
**State ID No.:** 1S1E03AD 06500  
**Quarter Section:** 3130  
**Neighborhood:** Buckman, contact Josh Baker at buckmanlandusepdx@gmail.com  
**Business District:** Central Eastside Industrial Council, contact ceic@ceic.cc.  
**District Coalition:** Southeast Uplift, contact Matchu Williams at matchu@seuplift.org  
**Plan District:** Central City - Central Eastside  
**Zoning:** IG1 – General Industrial 1  
**Case Type:** AD – Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

A new building is proposed on the site and is under building permit review (21-055933 CO). The building is proposed to have two stories. On the first level, there will be a shallow lobby area with access to five restaurants providing take-away food from a service area adjacent to their kitchens. The lobby will include a counter with seating looking out onto the street. The second level offers additional storage/flex space for those five Retail Sales and Service businesses.

The Central City Plan District has a ground floor active use standard that applies to sites along this part of SE Water Ave. The standard requires at least 50 percent of the ground floor of walls that front onto a sidewalk, plaza, or other public open space to meet the standard, which requires a minimum 12-foot interior floor to ceiling height, 25-foot interior depth, and the street-facing façade must include windows and doors, among other elements.

On the west façade, the lobby area measures over 14 feet tall and runs across the entire building, so 100 percent of this ground floor wall area has windows, doors, and a sufficiently high ceiling height to meet the standard. However, the lobby is only 8.5 feet deep from storefront walls to the wall separating the kitchens from the lobby. On the north façade, the frontage faces the area under the Hawthorne Bridge ramp. The standard is met for 20 percent of the length of the façade before the height drops below 12 feet. Therefore, the applicant is requesting an Adjustment to Zoning Code Section 33.510.225.C to reduce the depth of the ground floor active use area from 25 feet to 8.5 feet on the west façade, and reduce the area where the standard applies on the north façade from 50 percent to 20 percent.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

## ANALYSIS

**Site and Vicinity:** This 8,000-square-foot site is developed with a one-story warehouse building currently proposed for demolition (21-065077 CO). The site is located on the block between the two elevated ramps to the Hawthorne Bridge. There is no landscaping on the site and the site is flat.

The buildings in the vicinity are generally one- to four-story buildings serving as industrial, warehouse, commercial or office spaces. The street grid is typical of SE Portland and provides good connectivity throughout the neighborhood. The streets adjacent to the sites are developed with sidewalks and curbs.

SE Water Ave is classified as a Traffic Access Street; a Local Service Street for transit; a Major City Bikeway; a Major City Walkway in the Central City Pedestrian District; a Priority Truck Street; and a Major Emergency Response Street.

**Zoning:** The General Industrial 1 (IG1) zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. The intent is to promote viable and attractive industrial areas. IG1 areas generally have smaller lots and a grid block pattern. The area is mostly developed with sites having high building coverage and buildings which are usually close to the street. IG1 areas tend to be the City's older industrial areas. Minimum lot area is 10,000 square feet.

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

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

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **January 28, 2022**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);
- Bureau of Transportation (Exhibit E.2);
- Water Bureau (Exhibit E.3);
- Fire Bureau (Exhibit E.4);
- Site Development Section of BDS (Exhibit E.5); and
- BDS Life Safety Plans Examiner (Exhibit E.6).

**Neighborhood Review:** Multnomah County’s Department of Community Services, Transportation Division – Bridge Section wrote a memo detailing the county permitting requirements due to the proposed development’s proximity to the Hawthorne Bridge. The applicant must receive approval for a Construction Permit from Multnomah County before being able to proceed to construction (Exhibit F.1).

## ZONING CODE APPROVAL CRITERIA

### 33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

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

**Findings:** The applicant is asking to adjust the ground floor active use standard of the Central City Plan District – specifically, to reduce the depth of the active use area from 25 feet to 8.5 feet. The purpose of the regulation is stated in Zoning Code Section 33.510.225.A:

***Purpose.** The ground floor active use standards are intended to reinforce the continuity of pedestrian-active ground-level building uses. The standards help maintain a healthy urban district through the interrelationship of ground-floor building occupancy and street level accessible public uses and activities, and they encourage a transit-supportive, pedestrian-oriented environment that is safe, active with uses, and comfortable for residents, visitors, and others. Active uses include but are not limited to: lobbies, retail, commercial, and office uses, but do not include storage, vehicle parking, garbage, recycling, mechanical, or utility uses.*

The standard does not require the area subject to the standard (50 percent of the ground floor of walls that front onto a sidewalk or other public open space) to be developed with an active use such as those described in the purpose at time of construction, but rather that the space be designed to accommodate these uses with the minimum dimensions for height, depth, and presence of windows and doors. However, the applicant is proposing retail uses within the building, specifically take-out food restaurants with lobby seating.

One hundred percent of the west façade is dedicated to active uses, and will be accessible to passers-by. This 100 percent along the west façade plus the 20 percent provided on the north façade at the northwest corner is more than the length that would be required if the standard were met on both façades of the proposed building, and makes up roughly 56 percent of the total façade length. Focusing the active use area along SE Water Ave, which is the street the code is trying to activate, rather than providing more active use area under the bridge, where the street is focused on parking and one-way auto traffic, better meets the purposes for the standard.

Additionally, the proposal exceeds the minimum standard in these ways:

- The minimum 12-foot height is exceeded in the first 8.5 feet to over 14 feet, which creates a more spacious lobby area along the west façade.
- The west façade and part of the north boasts a glass storefront system above the stem wall, creating greater openness between the interior and exterior of the building and exceeding the required window minimums.
- Pedestrian entrances at both ends of the building along SE Water Ave will also contribute to the building feeling welcoming and open to passers-by.
- While the lobby is limited to approximately 8.5 feet in depth, the area beyond that will be used by the kitchens, to take orders and prepare food, with views into the space by both pedestrians and customers via roll-up doors opening to serving counters. In this way, the activity exposed to the lobby will contribute to the active use of the entire west half of the building.

In short, the proposed design with truly active uses wrapping both frontages, paired with design elements that support a vibrant streetscape on SE Water Ave (large amounts of glazing, operable storefront, recessed entries on both frontages and continuous pedestrian coverage) reinforce the continuity of pedestrian-active ground-level building uses along SE Water Ave. Provision of active uses along the entirety of the western street frontage plus 20 percent of the north façade exceeds the 50 percent minimum length required by the standard. For the reasons stated above, the purpose of the regulation is equally met with the proposed configuration. This criterion is met.

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** Since the site is zoned IG1, the Adjustment Review proposal must be consistent with the classifications of the adjacent streets and the desired character of the area.

#### Street classifications

The classifications of SE Water Ave in the Transportation Element of the Comprehensive Plan are listed in the Zoning section above. There is public right-of-way under the Hawthorne Bridge that offers one-way, east-to-west vehicle access and angled parking. This right-of-way is not classified.

The Adjustment to the active ground floor use standard affects interior dimensional requirements for interior building area and will have no impact on service levels on adjacent streets, nor will it affect the uses of the space. PBOT reviewed the proposal and responded with no concerns regarding approval (Exhibit E.2). For these reasons, staff finds the proposal is consistent with the adjacent street classifications.

#### Desired character of area

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

of the IG1 zone, the purpose statement for the Central City Plan District, and relevant statements from the Buckman Neighborhood Plan.

IG1 zone

The character statement for the IG1 zone is stated in Zoning Code Section 33.140.030.C and C.1:

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

1. **General Industrial 1.** *IG1 areas generally have smaller lots and a grid block pattern. The area is mostly developed, with sites having high building coverages and buildings which are usually close to the street. IG1 areas tend to be the City's older industrial areas.*

The new building will have a high building coverage with the building built close to both SE Water Ave and the frontage under the Hawthorne Bridge. The Adjustment does not affect the proposal's ability to meet the character of the IG1 zone. The focus of the zone is to promote viable and attractive industrial areas. The primary use of this project, Retail Sales and Service, does not necessarily contribute to that, but is allowed in this plan district at the square footage provided (less than 5,000 square feet as shown on Exhibit A.3). The proposal is consistent with the character of the base zone.

Central City Plan District

The purpose of the Central City Plan District is listed in Zoning Code Section 33.510.010:

**33.510.010 Purpose**

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

For the reasons cited in Criterion A, the Adjustment to reduce depth but increase width of the ground floor active use area along the west façade, and reduce the length along the north façade, is consistent with the purpose of the plan district. The decrease in depth is balanced and offset by having active use space span the entire length of the west elevation, the area where the pedestrian environment is more crucial. The proposal will foster a pedestrian-friendly street and vibrant public realm. Therefore, the proposal is consistent with the purpose of the Central City Plan District, this criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** Only one adjustment is requested. This criterion is not applicable.

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

**Findings:** City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** There are no discernible impacts that would result from granting the requested adjustment. This criterion is met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental Conservation overlay zone). As the site is not within an environmental zone, this criterion is not applicable.

## DEVELOPMENT STANDARDS

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

## CONCLUSIONS

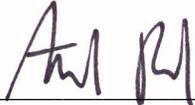
The proposed Adjustment is found to be consistent with the purpose of the regulation to be modified and with the desired character of the area. Although the depth of the active use area is less than otherwise required, the entire building's west frontage on SE Water Ave will be in active use. Since staff finds the Adjustment Review approval criteria to be met, the Adjustment must be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.510.225.C to reduce the depth of the ground floor active use area from 25 feet to 8.5 feet on the west façade, and reduce the area where the standard applies on the north façade from 50 percent to 20 percent, per the approved site plans, Exhibits C.1 through C.5, signed and dated March 23, 2022, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.5. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 21-071862 AD."

**Staff Planner: Amanda Rhoads**

**Decision rendered by:**  **on March 23, 2022**

By authority of the Director of the Bureau of Development Services

**Decision mailed: March 28, 2022**

**About this Decision.** This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on July 28, 2021, and was determined to be complete on January 24, 2022.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on July 28, 2021.

*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 extended the 120-day review period by 30 days (Exhibit A.4). Unless further extended by the applicant, **the 120 days will expire on: June 23, 2022.**

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

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

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

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

**Appealing this decision.** This decision may be appealed to the Adjustment Committee, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on April 11, 2022.** **The completed appeal application form must be emailed to [LandUseIntake@portlandoregon.gov](mailto:LandUseIntake@portlandoregon.gov) and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **April 11, 2022** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

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

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Original Narrative (superseded by A.5)
  - 2. Original Plans
  - 3. Building Use Diagram
  - 4. 30-Day Extension of State Timeline
  - 5. Revised Narrative
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. First Floor Plan
  - 3. Second Floor Plan
  - 4. West and North Elevation Drawings (attached)
  - 5. Section Drawing
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Life Safety Plans Examiner
- F. Correspondence:
  - 1. Ae-young Lee, Engineer 2, Multnomah County Transportation Division – Bridge Section, February 17, 2022, with information on required Multnomah County permitting for the overall development project due to proximity to the Hawthorne Bridge
- G. Other:
  - 1. Original Land Use Application
  - 2. Incomplete Letter, August 12, 2021

**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).**