



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

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Date: 1/30/2023
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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 22-205584 DZM AD – ALTERATIONS TO PREVIOUSLY APPROVED 7 STORY MIXED-USE BLDG

GENERAL INFORMATION

Applicant: Kurt Schultz | Sera Architecture
338 NW 5th Ave | Portland, OR 97209
kurts@seradesign.com

Owner/Agent: Michael Porto
29sc Pine Lofts Property Owner LLC | 29th Street Capitol
20 N Wacker Ste 2050 | Chicago, Il 60606

Site Address: 830 SE PINE ST

Legal Description: BLOCK 183 LOT 1-3&6-8 TL 10400 LAND & IMPS SEE R150358 (R226511642) FOR BILLBOARD, EAST PORTLAND

Tax Account No.: R226511640

State ID No.: 1N1E35CC 10400

Quarter Section: 3031

Neighborhood: Buckman, contact Nick Olson 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: **EXd**, Central Employment with a Design Overlay

Case Type: **DZM AD**, Design Review with Modification and Adjustment

Procedure: **Type II**, an administrative decision with appeal to the Design Commission.

Proposal:
The applicants request design review approval for changes to an already approved project located in the Central Eastside Subdistrict of the Central City Plan District. The building,

known as the SE 8th Ave Apartments, was approved by the Design Commission through a previous Type III design review, LU 16-280148 DZM, on June 15, 2017, and is currently under permit review. The project is a 7-story mixed-use building with 144 market-rate housing units, ground floor retail, and ground floor live-work units.

Based on revisions to electrical service standards, the previously approved PGE sidewalk vault has been disallowed and is now required to be relocated to the interior of the building's ground floor. The required Class A vault requires an interior building placement adjoining the exterior street frontage and results in a loss of over 800 sf of building program area.

In this current Type II design review, the applicants request approval of the following changes to the previously approved design:

- Addition of a Class A vault on the ground floor to accommodate a late change in the required electrical service from PGE. The ground floor will now have a transformer room set back from the street with an access corridor to SE 8th Ave, and an electrical room behind it. Related changes to the SE 8th Ave frontage include the change from an electrical room to a water room, reconfiguration of lobby, leasing and mail room frontages, addition of a bike lounge, and relocation of a live-work unit (see below for more information on live-work changes).
- Removal of the two planned Standard B loading spaces from inside the building in order to accommodate a Class A vault within the limited space of the building's ground floor.
- Addition of one live-work unit (increasing from four to five total live-work units) and relocation of one live-work unit including the following changes:
 - Three live-work units along SE Pine frontage remain relatively in same location and size as previously approved.
 - One live-work unit relocated from SE 8th Ave frontage to SE Sandy frontage with relatively same size as previously approved. New location driven by ground floor rearrangement along SE 8th Ave to accommodate the Class A vault inside the building. The new location displaces ground floor space previously approved as retail use.
 - One additional live-work unit along SE Pine displacing retail space.
- Other ground floor shifting includes
 - An exit passageway with frontage on SE Pine displacing retail space.
 - Bike room and stairwell shift displacing retail space.
 - Addition of mechanical parking with a Modification to parking space dimensions.

Modification requests [PZC 33.825.040]:

- Reduce parking space dimensions to allow for an automated parking system from the required 8'-6" x 16'-0" parking space down to 7'-10" x 17'-0" (33.266.130.F.2 | Table 266-4)

Adjustment request [PZC 33.805]:

- Reduce the number of required loading stalls from one Standard A or two Standard B loading stalls to none (33.266.310.C).

Design review is necessary because the proposal is for exterior alterations in a Design Overlay Zone.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- | | |
|--|---|
| ■ Central City Fundamental Design Guidelines | ■ Special Design Guidelines for the Design Zone of the Central Eastside District of the Central City Plan |
| ■ PZC 33.805.040, Approval Criteria for | ■ PZC 33.825.040, Modifications that will |

Adjustments

better meet design review requirements

ANALYSIS

Site and Vicinity: The subject building, known as the SE 8th Ave Apartments, was approved by the Design Commission through a previous Type III design review, LU 16-280148 DZM, on June 15, 2017, and is currently under permit review. The project is a 7-story mixed-use building with 144 market-rate housing units, ground floor retail, and ground floor live-work units.

The site is a trapezoidal shaped parcel with frontage on SE Sandy Blvd, SE 8th Ave and SE Pine St. The site slopes to the southwest, dropping between 4'-6' feet on both SE Pine St and SE Sandy Blvd. The southern portion of the block supports a distillery (Bird Creek Distillery) and a coffee shop (Portland Coffee Roasters) which has outdoor seating area abutting the subject site's southern property line.

The site abuts a segment of SE Sandy Blvd constructed between 1929-32 diagonally bisecting the established 200' city grid connecting E Burnside St and SE Washington St. The street extension project directly impacted 8 city blocks to varying extent (approximately 1/3 of the subject site's eastern area was dedicated to create SE Sandy Blvd) resulting in geometric variation in block geometry, building wall diversity, exposed end walls, eroded corners and small pocket spaces. This segment of SE Sandy Blvd offers a variety of direct and oblique descending views of the central city and river through this unique urban structure.

The Portland Transportation System Plan, classifies the site's three abutting rights-of-way as follows:

- SE Sandy Blvd is classified as a Major City Walkway, Major City Bikeway, Civic Main Street, Transit Access Street, Major Truck Street, Traffic Access Street, and Secondary Emergency Response Street.
- SE Pine St is classified as a Neighborhood Walkway, a Minor Emergency Response Street, and a Local Service Transit, Bicycle, Design, and Traffic Street.
- SE 8th Ave classified as a Minimum Emergency Response Street, and a Local Service Pedestrian, Bicycle, Transit, Design and Traffic Street

The site is located in the Central City Pedestrian District and near the eastern edge of a designated Freight District.

Traditional immediate built context consists of 2 to 3 story commercial structures, while contemporary mixed-use 5 over 1 infill development is occurring between two and four blocks of the site. Broader context consists of a wide variety of uses, such as manufacturing and production, warehouses, independent "creative" firms and start-up companies, small offices, scattered residential buildings, car dealerships, social service agencies, restaurants, bars, nightclubs, a skateboard park, and locally owned independent retail shops. E Burnside (3 blocks north of the site), from approximately SE 6th Avenue to SE 12th Avenue, has become a destination area for new retailers and restaurateurs in recent years, resulting in an increasingly pedestrian-oriented corridor that is active during daytime as well as nighttime hours.

Zoning: The Central Employment (EX) 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 development standards are intended to allow new development which is similar in character to existing development.

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;
- Contribute to a public realm that encourages social interaction and fosters inclusivity in people’s daily experience; and
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.

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 that prior land use reviews include the following:

- LU 16-280148 DZM – Approval for a new 7-story market rate apartment building with ground floor retail.
- LU 14-232696 DZ – Approval for minor exterior alterations to the north façade of the Nu-way building.
- LU 97-014218 DZ (Ref #: LUR 97-00172) – Approval to place a 47 SF painted wall sign on the east side of the building.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **December 15, 2022**. The following seven Bureaus, Divisions and/or Sections responded with no objections and four of these included comments found in Exhibits E.1-E.4:

- Life Safety Division of the Bureau of Development Services (Exhibit E.1)
- Fire Bureau (Exhibit E.2)
- The Bureau of Transportation Engineering (Exhibit E.3)

PBOT included the following comments in their response:

- *Frontage improvement constructed under a separate public works permit shall be a condition of building permit approval.*
- *The operation of the gate for the on-site parking shall be subject to the conditions of the approved DDE (17-118301 TR) as a condition of building permit approval.*
- *Outside of any land use review, the applicant can contact PBOT Parking Operations to determine if an on-street loading space can be created to serve this and nearby development in there are none in the immediate area. The applicant should be aware that there are no guarantees that an on-street loading space will be granted or that any existing on-street loading spaces will remain in the future.*

- Urban Forestry Division of the Bureau of Parks & Recreation (Exhibit E.4)

Urban Forestry included the following comments in their response:

- *It is the applicant’s responsibility to disclose all aspects of their land use proposal that may impact required street tree plantings and existing street trees during the land use review process.*
- *Unless explicitly stated herein, this review does not approve street tree removals and does not provide any exemptions to Title 11 requirements.*

- Bureau of Environmental Services
- Site Development Review Section of Bureau of Development Services

- Water Bureau

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on December 15, 2022. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Chapter 33.825 Design Review

Section 33.825.010 Purpose of Design Review

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

Section 33.825.055, Design Review Approval Criteria

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

Findings: The site is designated with design overlay zoning (d), therefore the proposal requires Design review approval. Because the site is located generally within the Central City Plan District, the applicable design guidelines are the Central City Plan Fundamental Design Guidelines. As the site is also specifically located within the Design Zone of the Central Eastside District, the Special Design Guidelines for the Design Zone of the Central Eastside District of the Central City Plan also apply.

Special Design Guidelines for the Design Zone of the Central Eastside District of the Central City Plan and Central City Fundamental Design Guidelines

The Central Eastside is a unique neighborhood. The property and business owners are proud of the district's heritage and service to the community and region. Light industry, distribution/warehousing, and transportation are important components of the district's personality. To the general public, retail stores and commercial businesses provide the central focus within the district.

The underlying urban design objective for the Central Eastside is to capitalize on and emphasize its unique assets in a manner that is respectful, supportive, creative and compatible with each area as a whole. Part of the charm and character of the Central Eastside District, which should be celebrated, is its eclectic mixture of building types and uses. An additional strength, which should be built on, is the pattern of pedestrian friendly retail uses on Grand Avenue, East Burnside and Morrison Streets, as well as portions of 11th and 12th Avenues.

The Central City Fundamental Design Guidelines focus on four general categories. **(A) Portland Personality**, addresses design issues and elements that reinforce and enhance Portland's character. **(B) Pedestrian Emphasis**, addresses design issues and elements that contribute to a successful pedestrian environment. **(C) Project Design**, addresses specific building characteristics and their relationships to the public environment. **(D) Special Areas**, provides design guidelines for the four special areas of the Central City.

Central Eastside Design Goals

The following goals and objectives define the urban design vision for new development and other improvements in the Central Eastside

- Encourage the special distinction and identity of the design review areas of the Central Eastside District.
- Provide continuity between the Central Eastside and the Lloyd District.
- Provide continuity between the Central Eastside and the river, downtown, and adjacent residential neighborhoods.
- Enhance the safety, convenience, pleasure, and comfort of pedestrians.

Central City Plan Design Goals

This set of goals are those developed to guide development throughout the Central City. They apply within all of the Central City policy areas. The nine goals for design review within the Central City are as follows:

1. Encourage urban design excellence in the Central City;
2. Integrate urban design and preservation of our heritage into the development process;
3. Enhance the character of the Central City's districts;
4. Promote the development of diversity and areas of special character within the Central City;
5. Establish an urban design relationship between the Central City's districts and the Central City as a whole;
6. Provide for a pleasant, rich and diverse pedestrian experience for pedestrians;
7. Provide for the humanization of the Central City through promotion of the arts;
8. Assist in creating a 24-hour Central City which is safe, humane and prosperous;
9. Ensure that new development is at a human scale and that it relates to the scale and desired character of its setting and the Central City as a whole.

Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.

A5. Enhance, Embellish, and Identify Areas. Enhance an area by reflecting the local character within the right-of-way. Embellish an area by integrating elements in new development that build on the area's character. Identify an area's special features or qualities by integrating them into new development.

A5-2. Acknowledge the Sandy River Wagon Road (Sandy Boulevard). Acknowledge the historical significance of the Sandy River Wagon Road (Sandy Boulevard) from East Burnside to 7th Avenue with an upgrade of the public right-of-way to be more pedestrian accommodating and which is related to its historical context. New development located adjacent to this diagonal alignment also should acknowledge the historical significance in a creative way that is attractive, informative, and appropriate.

A5-3. Plan for or Incorporate Underground Utility Service. Plan for or Incorporate Underground Utility Service to development projects.

A8. Contribute to a Vibrant Streetscape. Integrate building setbacks with adjacent sidewalks to increase the space for potential public use. Develop visual and physical connections into buildings' active interior spaces from adjacent sidewalks. Use architectural elements such as atriums, grand entries and large ground-level windows to reveal important interior spaces and activities.

B2. Protect the Pedestrian. Protect the pedestrian environment from vehicular movement. Develop integrated identification, sign, and sidewalk-oriented night-lighting systems that offer safety, interest, and diversity to the pedestrian. Incorporate building equipment, mechanical exhaust routing systems, and/or service areas in a manner that does not detract from the pedestrian environment.

C1-1. Integrate Parking.

- a. Integrate parking in a manner that is attractive and complementary to the site and its surroundings.
- b. Design parking garage exteriors to visually respect and integrate with adjacent buildings and environment.

C2. Promote Quality and Permanence in Development. Use design principles and building materials that promote quality and permanence.

C5. Design for Coherency. Integrate the different building and design elements including, but not limited to, construction materials, roofs, entrances, as well as window, door, sign, and lighting systems, to achieve a coherent composition.

C7. Design Corners that Build Active Intersections. Use design elements including, but not limited to, varying building heights, changes in façade plane, large windows, awnings, canopies, marquees, signs and pedestrian entrances to highlight building corners. Locate flexible sidewalk-level retail opportunities at building corners. Locate stairs, elevators, and other upper floor building access points toward the middle of the block.

C8. Differentiate the Sidewalk-Level of Buildings. Differentiate the sidewalk-level of the building from the middle and top by using elements including, but not limited to, different exterior materials, awnings, signs, and large windows.

C8-1. Allow for Loading and Staging Areas on Sidewalks. On local service streets, adjacent businesses may use the sidewalk area for temporary loading and staging as long as pedestrian access through it is maintained.

C9. Develop Flexible Sidewalk-Level Spaces. Develop flexible spaces at the sidewalk-level of buildings to accommodate a variety of active uses.

Findings for A5, A5-2, A5-3, A8, B2, C1-1, C2, C5, C7, C8-1, and C9: The ground floor reconfiguration proposed for an already approved project located in the Central Eastside Subdistrict of the Central City Plan District is driven by a highly unusual convergence of circumstances. The subject mixed-use building was approved by the Design Commission through a previous Type III design review in 2017 and is currently under permit review. A rare set of circumstances discussed in the paragraphs below have created a hardship for the project's viability as previously approved. Given this context and the building's valuable addition to the city's housing stock, along with the high quality of the design and active uses included in the building's ground floor, staff has worked with the applicants to find a path to allow revisions to the project without losing the most valuable qualities of the previously approved design.

The project is a 7-story mixed-use building with 144 market-rate housing units, ground floor retail, and ground floor live/work units. At the time of the initial design review approval in 2017, the City allowed vaults to be placed in the right-of-way via a PBOT review process. This project had gone through that process and had PBOT support for a vault to be located in the adjacent right-of-way which would have kept the transformer outside of the building. In the years since the project's approval, PBOT has adopted a new policy that electrical transformers be located on private property except in rare circumstances when Title 33 standards or design guidelines cannot be met.

With the transformer now required to be located inside the building, the previously approved PGE sidewalk vault has been disallowed. The transformer must be located within the building in order for it to complete the permitting process. Per PGE, the electrical transformer located inside the building must have occupy its own room and must have direct access to the exterior street frontage. The new ground floor configuration created to accommodate the interior transformer has resulted in a loss of over 800 SF of building program area on the ground floor.

The currently proposed design allows for the reconfiguration of the ground floor in a way that sets the transformer room back from the street frontages in order to maintain active uses along the right-of-way to the maximum extent possible. While the transformer room will have a direct access corridor to the street, it has been minimized to impact a single exterior bay. Thus, there will be almost as much active use along the building's street frontages as previously approved.

The 2017 approval had a single inactive use adjacent to one of its street frontages – a narrow electrical room that sat behind a solid exterior wall along the west façade. The new proposal adds one additional bay to the inactive frontage zone along the west façade. The area that was previously the electrical room is now a water room, and immediately adjacent to it along the west façade is an exit vestibule for the transformer room that can allow clear glass storefront. This additional bay of inactive frontage is a small portion of the building's three street-facing frontages. To achieve this solution where active uses along the right-of-way are preserved the maximum amount, other changes to the ground floor were also required.

In addition to the inclusion of the transformer room, its associated electrical room and exit vestibule, the following changes to the previously approved design are proposed:

- Removal of the two planned Standard B loading spaces including an Adjustment to Portland Zoning Code loading standards;

- Addition of a live-work unit along SE Pine displacing retail space which increases the total number of live-work units from four to five total;
- Relocation of one live-work unit from SE 8th Ave frontage to SE Sandy frontage which displaces ground floor space previously approved as retail use;
- Relocation of an exit passageway from south end of building to north end with frontage on SE Pine displacing retail space;
- Shifting of bike room and stairwell locations displacing retail space;
- Additional of mechanical parking including a Modification to Portland Zoning Code parking space dimension standards;
- Shifting of SE 8th Ave frontage including: change from an electrical room to a water room, reconfiguration of lobby, leasing and mail room frontages, addition of a bike lounge, and previously noted relocation of a live-work unit.

Staff has worked with the applicant to find an approvable ground floor plan that continues to deliver active street frontages that meet the significant bar of the design review guidelines while also mitigating the hardship of losing approximately 800 SF of ground floor program due to the new transformer requirement. Alternate program revisions explored by the applicant would have resulted in a loss of housing units and/or loss of more active use adjacent to the building's street frontages.

No housing units will be lost with the current proposal, and square footage of housing will not be reduced. The current proposal has been optimized to retain much needed housing, meet design guidelines, and mitigate some of the hardship brought about by the revised transformer placement required under the unique circumstances of this project. Retail space has unfortunately been reduced as part of this balancing act. In order for staff to support replacing some of the ground floor retail area with two additional live-work units (#4 and #5) and because the area and street classifications are much more conducive to ground level commercial than ground level residential, clear evidence was required that the live-work units could be easily converted into commercial space should the market make such a transformation desirable in the future. It was also necessary to have certainty that all remaining commercial space currently allocated shall not be changed to live-work or any other use other than a commercial use in perpetuity. A Condition of Approval has been added towards this requirement.

With live-work units in locations along SE Pine St and SE Sandy Blvd that could be highly favorable to commercial uses, characteristics related to fenestration, accessibility, demising, plumbing, etc. that enable easy conversion to commercial spaces were necessary to meet the approval criteria. The following are a list of factors provided by the applicant that ensure the process of converting the live-work units to commercial space would be a relatively easy process (see exhibit C-6 for layout diagrams):

- The type I concrete construction eliminates interior bearing walls and allows for future conversion of retail demising with limited alterations and without impacting the building structure, fire ratings and/or life safety components.
- The two live-work units (4+5) are adjacent to the larger retail program and will be able to be utilized as-is or combined for a larger tenant - see plan diagrams on page C-6.
- The storefront fenestration accommodates multiple retail entry options and opportunity for ample daylight.
- With extensive storefront at the street façade of the live-work units (4+5), high visibility is already provided for future retail tenants.
- High ceilings desired by retail are already in place.
- Demising and partition walls are non-structural.
- Internal partition walls are easily removed to provide greater flexibility for retail.

- Plumbing core at 'back of house' location will benefit future conversions.
- Demising walls not utilized to route building plumbing services.
- Accessibility:
 - Under the American with Disabilities Act, any elements of the live-work units that are open to the general public, i.e., the work space, shall comply with ADA requirements. Therefore, the public spaces within the live-work units would already be compliant and not require additional alterations to meet the applicable standards for retail.
 - Combined retail has multiple potential entries to meet accessibility requirements.
 - Entry at grade provides accessibility for small retail.
 - Bathroom vanity/toilet clearances including grab bars meet ADA.
- Concrete floors and ceiling maintain fire ratings.
- Light gauge metal framing is easily removed and recycled for retail conversion.

Overall, the building continues to respond to both the existing neighborhood character and the emerging context. The building will maintain its well-resolved flatiron expression taking cues from the acute intersection at SE Sandy Blvd and SE Pine St. The project's two primary corners on SE Pine St at SE Sandy Blvd and SE 8th Ave at Pine will continue to have appropriately active uses. Retail featuring a chamfered corner entry holds down the intersection of Sandy and Pine, and the main residential entrance and lobby occupies the corner of Pine and 8th. The site's three street frontages continue to be highly activated by program and design which will enliven the neighborhood

With the Condition of Approval that all ground floor program shown as retail in the approved exhibits (noted as "Retail North" and "Retail South") shall remain as retail use and not be converted into live-work, work-live or any other use other than retail sales and service, these guidelines are met.

33.825.040 Modifications That Will Better Meet Design Review Requirements:

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the design review process. The review body may not consider modifications to standards for which adjustments are prohibited. Modifications are done as part of design review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or other standards that are calculated based upon the size or intensity of the use such as the quantity of parking and loading spaces) are required to go through the adjustment process. Modifications that are denied through design review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

- A. Better meets design guidelines.** The resulting development will better meet the applicable design guidelines; and
- B. Purpose of the standard.** On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.
- C. Mitigation of impacts.** Any impacts resulting from the modifications are mitigated to the extent practical.

1. **Modification #1: Parking space and aisle dimensions, PZC 33.266.310.F.2** – reduce parking space dimensions to allow for an automated parking system from the required 8'-6" x 16'-0" parking space down to 7'-10" x 17'-0" (33.266.130.F.2 | Table 266-4).

Purpose Statement: The parking area layout standards are intended to promote safe circulation within the parking area, provide for the effective management of stormwater runoff from vehicle areas, and provide for convenient entry and exit of vehicles.

Standard: 33.266.130.F.2 – Parking spaces and aisles must meet the minimum dimensions contained in Table 266-4: a 90-degree parking space requires a width of 8’-6” and a stall depth of 16’-0”.

- A. Better meets design guidelines.** *The resulting development will better meet the applicable design guidelines; and*
- B. Purpose of the standard.** *On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*
- C. Mitigation of impacts.** *Any impacts resulting from the modifications are mitigated to the extent practical.*

Findings: The building’s parking will be provided via an automated parking system. Portland Zoning Code, 33.266.130.F.2/Table 266-4, requires a 90-degree parking space to have minimum width of 8’-6” and a stall depth of 16’-0”. The Modification request will allow the parking provided for building residents to be more compact than usual and to be tucked into the center of the building with minimal impact on the building’s street frontages.

On balance, the Modification is consistent with the purpose of the standard. The nature of the automated parking system is extremely different from traditional parking aisles. The project proposes to utilize an automated parking system that reduces the footprint necessary for car parking and can better support the needs of the residents. Based on the structured mechanics of the system, the grid width varies across the system, however, the individual platforms are standardized at 7’10” wide x 17’ in length. The parking garage is a private residential garage and not open to the public. All parking spaces will be assigned to individual tenants. The tenants will be familiar with the circulation patterns required to enter and exit the automated system and circulation within the parking area will remain safe and provide for convenient entry and exit of vehicles from the garage.

PBOT has reviewed the project and supports the parking stall Modification. PBOT’s response included the following:

PBOT has no objection to the request to narrow the dimensions of the mechanical on-site parking stalls. The conditions of the approved Driveway Design Exception (DDE) shall continue to apply and shall be a condition of building permit approval.

A DDE was approved for this project (17-118301-TR) to allow the garage door to be located at the property line subject to the following conditions:

- *The gate/door must fully open/close in 15 seconds or less (manufacture specifications will be required prior to Building Permit approval).*
- *The gate/door and the parking ramp must be a minimum of 20-ft wide.*
- *The parking spaces must be reserved for residential use and loading activities only.*
- *The security gate/door must be activated by remote control or transponder, with a 50-ft minimum detection radius, issued to all residents who are allowed access to the parking garage.*

Generally, the non-conforming parking dimensions will better meet the design review approval criteria than would a design that meets the standard being modified. Requiring the mandated dimensions would have precluded the use of the automated parking system and thus more space within the building would have been needed to provide the same amount of parking for residents which would have had a large impact on the building’s ground floor active uses which enliven the streetscape. Conversely, modifying the standard has a positive impact on the public realm. The proposed

configuration allows the building to maintain a pedestrian-friendly design along its three street frontages while also providing adequate parking to the building's residents and reducing on-street parking demands in the Central Eastside area. The parking area appearance from the public realm along the sidewalk will consist of the overhead door in the southwest corner of the site at the innermost portion of the building's frontage along SE 8th Ave. Given the tight confines of the building's ground floor, strict adherence to the parking dimensions standard would not allow it to exist in the proposed configuration and would thus result in more of the building's ground floor being used for parking, and less being used for active uses that enliven the three adjacent streetscapes. The proposed functional and space efficient system better meets design guidelines because it eases programmatic demand thereby allowing more active uses at the street and better meets *A8 Contribute to a Vibrant Streetscape*, *C1-1 Integrate Parking*, and *C9 Develop Flexible Sidewalk-Level Spaces*.

Therefore, this Modification merits approval.

33.805 Adjustment Requests:

33.805.010 Purpose

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply citywide, 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 to provide certainty and rapid processing for land use applications.

The following adjustment is requested:

- 1. Adjustment: Number of Loading Spaces, PZC 33.266.310.C.2.a / 33.266.310.C.1.c** – reduce the number of required loading stalls from one Standard A or two Standard B loading stalls to none (33.266.310.C).

Purpose Statement: A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way.

Standard: 33.266.310.C.2.a / 33.266.310.C.1.c – One loading space meeting Standard A or two loading spaces meeting Standard B are required when there are more than 100 dwelling units in the building.

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 have been met:

- Granting the adjustment will equally or better meet the purpose of the regulation to be modified.
- 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.
- 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.
- City-designated scenic resources and historic resources are preserved.
- Any impacts resulting from the adjustment are mitigated to the extent practical; and

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

Findings for A, B and E: One loading space meeting Standard A or two loading spaces meeting Standard B are required for this site per Portland Zoning Code, 33.266.310.C.2.a / 33.266.310.C.1.c, and the applicant proposes to have no loading spaces. Based on revisions to the City's policies related to electrical vaults in rights-of-way, the previously approved PGE electrical transformer sidewalk vault has been disallowed and is now required to be relocated to the interior of the building's ground floor. The proposed design thus eliminates the two planned Standard B loading spaces in order to accommodate the Class A vault within the limited space of the buildings ground floor. The required Class A vault requires an interior building placement adjoining the exterior street frontage and results in a loss of over 800 sf of building program area. The continued application of the loading standard in question, would require wholesale changes to the building design previously approved through the design review process.

Given tight confines of the back-of-house required to house the electrical transformer and the associated electrical room inside the building, adherence to the standard would not allow the ground floor program to exist in the proposed configuration and would thus result in more of the ground floor being used for loading, with knock-on impacts on the building's active frontages. Further, without the elimination of the two loading spaces and the resulting gain of building area, significant changes to the entitled building design would be required.

The Adjustment request, in tandem with the Modification request, will allow the building's back-of-house zone – parking, electrical transformer room, water room, trash room, electrical room, compactor – to be more compact than usual and to be tucked into the center of the site with minimal impact on the building's three street frontages.

The proposal will be consistent with the classifications of the adjacent streets and the desired character of the area and will meet the purpose of the standard being adjusted. If the site only had a single frontage, such as along SE Sandy Blvd, support for this Adjustment would be challenging. However, this site has more street frontage than a typical development. The purpose of the loading standards is to ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting rights-of-way. With three street frontages, the ability to avoid negative effects on traffic and transportation functions is possible. In the Portland Transportation System Plan, Sandy Blvd has the highest classification, followed by SE Pine, and SE 8th has the lowest, making SE 8th the most likely location for loading activities. The street classifications are as follows:

- SE 8th Ave classified as a Minimum Emergency Response Street, and a Local Service Pedestrian, Bicycle, Transit, Design and Traffic Street
- SE Pine St is classified as a Neighborhood Walkway, a Minor Emergency Response Street, and a Local Service Transit, Bicycle, Design, and Traffic Street.
- SE Sandy Blvd is classified as a Major City Walkway, Major City Bikeway, Transit Access Street, Major Truck Street, Traffic Access Street, and Secondary Emergency Response Street.

PBOT has reviewed the project and has concluded that they can support the loading Adjustment proposed given the unique extenuating circumstances surrounding this proposal related to a change in PBOT electrical transformer vault policies. At the time of the initial design review approval (LU 16-280148 DZM) approved on June 15, 2017, the City allowed vaults to be placed in the right-of-way via a PBOT review process. This project had gone through that process and had PBOT support for a vault to be located in the adjacent right-of-way which would have kept the transformer outside of the building. In the years since the project's approval, PBOT has adopted a new policy that electrical transformers be located on private property except in rare circumstances when Title 33 standards or design guidelines cannot be met. With the transformer now required to be located inside the building, the Adjustment will allow the space for the

interior vault room by displacing area previously designated for loading. PBOT's response included the following:

This site had a previously approved vault within the right-of-way that was rescinded. Based on current vault policies that now make it a requirement that transformers be located on private property except in rare circumstances when Title 33 standards [or design guidelines] cannot be met, PBOT can support the Adjustment to not provide either a Type A or two Type B's on-site loading spaces. Outside of any land use review, the applicant can contact PBOT Parking Operations to determine if an on-street loading space can be created to serve this and nearby development in there are none in the immediate area. The applicant should be aware that there are no guarantees that an on-street loading space will be granted or that any existing on-street loading spaces will remain in the future. Below is an excerpt administrative rule TRN 16.20.220 Truck Loading Zones.

Per TRN 16.20.220 "Truck Loading Zones", PBOT may establish on-street loading areas to prevent double parking and other illegal parking by designating a limited supply of parking spaces dedicated to the delivery of merchandise by trucks to commercial properties. However, consistent with PCC 17.24.005 PBOT is responsible for management of the public right-of-way and may remove, relocate, or modify existing truck loading zones as needed to effectively manage the competing public demands for a limited amount of ROW. Existing truck loading zones may be removed or modified to accommodate future Capital Improvement Projects, reestablish needed parking, or to address safety concerns.

Approval of an Adjustment or Modification to the on-site truck loading requirements of the Zoning Code shall not serve as tacit approval that existing truck loading zones within ROW abutting, or in the vicinity of, the site will continue to be available to support the proposed development. The applicant should have no expectation that the existing truck loading zones will continue to be available to serve the private commercial delivery needs of their project.

Alternate program revisions explored resulted in a loss of housing units, resident services and/or a further reduction in active uses; all of which would have resulted in a more significant impact to the use of the site and neighborhood. The proposed elimination of loading spaces within the building provides for the accommodation of the revised Class A vault and maintains the buildings residential program and an active ground floor. The proposed ground floor revisions also result in a decrease of vehicle traffic exiting the building which works to mitigate the potential impact created by resident's vehicles queuing into the right-of-way. PBOT has reviewed the updated parking configuration and determined that the overall vehicle impact will be reduced from the original approval and therefore no updates to the DDE are necessary. In addition, the relocation of the sidewalk vault provides the public benefit of allowing for additional street trees and eliminating large utility lids within the pedestrian zone of the sidewalk.

For these stated reasons, these approval criteria are met.

Findings for C, D, and F: *These criteria do not apply.*

Therefore, this Adjustment merits approval.

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 ground floor reconfiguration proposed for an already approved project located in the Central Eastside Subdistrict of the Central City Plan District is driven by a highly unusual convergence of circumstances. The proposed changes will allow the project to continue to be viable. Alternate program revisions explored resulted in a loss of housing units, resident services and/or a further reduction in active uses; all of which would have resulted in a more significant impact to the use of the site and neighborhood. The proposed elimination of loading spaces within the building provides for the accommodation of the revised Class A vault and maintains the buildings residential program and an active ground floor.

In addition to providing much needed housing, the proposed seven-story, mixed-use apartment building in the Central Eastside Subdistrict of the Central City Plan District will bring pedestrian activity to the three streets it abuts. Its context-sensitive flat-iron design will bring a sense of place to the intersection of SE Sandy Blvd and SE Pine St. The ground floor layout changes are primarily driven by the accommodation of a Class A electrical vault inside the building with immediate street frontage access and the resulting loss of over 800 sf of building program area. The building's construction type and layout ensure the convertibility of live-work spaces to retail space in the future should there be demand for retail in this location. The Adjustment request, in tandem with the Modification request, will allow the building's back-of-house zone – parking, electrical transformer room, water room, trash room, electrical room, compactor – to be more compact than usual and to be tucked into the center of the site with minimal impact on the building's two street frontages.

The design review process implements the Design overlay zone, strengthening these areas as places designed for people. Design review supports development that builds on context, contributes to the public realm, and provides high quality and resilient buildings and public spaces. The proposal meets the applicable design guidelines and modification and adjustment criteria and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval for changes to an already approved project (LU 16-280148 DZM) located in the Central Eastside Subdistrict of the Central City Plan District.

Approval for the following Modification request:

- Reduce parking space dimensions to allow for an automated parking system from the required 8'-6" x 16'-0" parking space down to 7'-10" x 17'-0" (33.266.130.F.2 | Table 266-4).

Approval for the following Adjustment request:

- Reduce the number of required loading stalls from one Standard A or two Standard B loading stalls to none (33.266.310.C).

Approvals per the approved site plans, Exhibits C-1 through C-9, signed and dated 1/24/2023, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through D) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 22-205584 DZM AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. No field changes allowed.
- D. All ground floor program shown as retail in the approved exhibits (noted as “Retail North” and “Retail South”) shall remain as retail use and not be converted into live-work, work-live or any other use other than retail sales and service.

Staff Planner: Tanya Paglia



Decision rendered by: _____ **on 1/24/2023.**

By authority of the Director of the Bureau of Development Services

Decision mailed: 1/30/2023

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 November 22, 2022, and was determined to be complete on December 9, 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 November 22, 2022.

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: 4/8/2023.**

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 Design Commission, 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 2/13/2023. The completed appeal application form must be emailed to 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 Design Commission 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 Design Commission 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 **2/13/2023** 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 Submittal
 - 1. Applicant's project narrative
 - 2. Original plan set – NOT APPROVED/reference only
 - 3. Applicant's response to incomplete letter
- B. Zoning Map (attached)
- C. Plan & Drawings
 - 1. Table of Contents
 - 2. Site Utility Plan
 - 3. Proposed Site Plan (attached)
 - 4. Previously Approved Ground Floor Plan
 - 5. Proposed Ground Floor Plan (attached)
 - 6. Live-work Convertibility Plans and Information
 - 7. East Façade Partial Elevations (attached)
 - 8. North Façade Partial Elevations
 - 9. West Façade Partial Elevations
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Division of the Bureau of Development Services
 - 2. Fire Bureau
 - 3. The Bureau of Transportation Engineering
 - 4. Urban Forestry Division of the Bureau of Parks & Recreation
- F. Correspondence: None received
- G. Other
 - 1. Original LUR Application
 - 2. Incomplete letter
 - 3. Previous Type III Design Review Approval, LU 16-280148 DZM

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).