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CITY OF PORTLAND
Office of the City Auditor
1221 SW Fourth Avenue, Room 140
Portland, OR 97204-1900

I hereby certify this Land Use Document No. LU 10-145100 DZM – Order of Council to be a complete and exact copy of the original as the same appears on file and of record in my office and in my care and custody on March 2, 2011.

LAVONNE GRIFFIN-VALADE
Auditor of the City Of Portland

By *Susan Parsons*
Deputy

RETURN TO CITY AUDITOR
131/140/Auditor's Office

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**ORDER OF COUNCIL ON APPEAL OF
SOUTH PORTLAND NEIGHBORHOOD ASSOCIATION AGAINST DESIGN COMMISSION'S
DECISION TO APPROVE A BUILDING ADDITION AT 4310 SW MACADAM AVE
(HEARING; LU 10-145100 DZM)**

Appellant: Jim Davis, South Portland Neighborhood Assoc. – 503-248-9820
2337 SW 6th Avenue
Portland, OR 97201

Applicant: 4310 Building LLC (Listed Owner)
101 N Tryon Street
Charlotte, NC 28246-0100

Applicant's Representative: Keith Skille, GBD Architects - 503-224-9656
1120 NW Couch, Suite 300
Portland, OR 97209

Rodney Grinberg, Lindquist Development Company - 503-227-8275
PO Box 42135
Portland, OR 97242

Carrie Richter, Garvey Schubert Barer – 503-228-3939
121 SW Morrison Street, 11th Floor
Portland, OR 97204

Site Address: 4310 SW MACADAM AVENUE

Legal Description: TL 500 1.24 ACRES, SECTION 10 1S 1E

Plan District: Central City - South Waterfront

Zoning: CXd, Central Commercial with Design Overlay

Land Use Review: Type III, Design Commission Review with Modifications (DZM)

Proposal: The applicant seeks design review approval on a proposal for an addition to an existing building. The addition will be a three-story building connected to the existing four-story office building. The addition will consist of a single, 18,300 SF office floor over two 23,000 SF parking levels and include a partial 8,000 SF level of below-grade parking. The parking structure will accommodate 101 cars. The existing building and the addition will be the same height. The main entrance will be located at the northeast corner of the existing building, fronting SW Bancroft. The area between the building and future SW Moody will be mostly vehicle area and will be fenced.

The initial land use application indicated the project would include two primary uses - Office and Retail Sales and Service. In the appeal proceedings City Council concluded the project would be for three primary

uses – Office, Retail Sales and Service and a Detention Facility (as discussed below in Section III “Analysis”, “Zoning” sub-section).

The proposal for review indicates a Phase 1 (or Initial Development) and a Phase 2 (or Future Development). The reason for two Phases is due to the fact that a portion of SW Moody will be extended through this site; future SW Moody will include Streetcar. The timing of the street extension is not known, but construction is anticipated to begin within 5-8 years. This site will therefore front SW Moody along its entire east property line in the near future. Section 33.510.030 of the Zoning Code requires Central City Plan District regulations to be applied based on the future location of the street as shown in the adopted Street Plan.

Modification requests:

1. **Ground Floor Windows.** 33.510.220 and 33.130.230. This project is considered a “Major Remodel”. The building (existing and proposed) must therefore comply with the Ground Floor Window regulations at all four elevations. Regulation: 50% of the wall length and 25% of the ground floor wall area must be qualifying window features. The north, south and east elevations do not meet this standard.
2. **Transit Street Main Entrance.** 33.130.242. Regulation: The main entrance must be within 25’ of a transit street. The main entrance to the building, which faces SW Bancroft, is further than 25’ from this transit street.
3. **Location of Vehicle Areas.** Table 266-3. Regulation: Vehicle area is only allowed between the building and one local service transit street. Vehicle area is proposed between the building and future SW Moody, a designated major transit priority street (which is not considered a local service transit street).
4. **Required Building Line.** 33.510.215. This project is considered a “Major Remodel”. The building (existing and proposed) must therefore comply with this regulation at future SW Moody. Regulation: The building must extend to the street lot line or be within 12’ of the street lot line for 75% of the lot line. The SW Moody elevation does not meet this standard.

Ground Floor Active Use. 33.510.225. This project is considered a “Major Remodel”. The building (existing and proposed) must therefore comply with this regulation at future SW Moody. Regulation: Buildings must be designed and constructed to accommodate active uses for 50% of the street-facing ground floor wall. Furthermore, in South Waterfront specifically, vehicle areas are not allowed in the portions of a building that are required to meet this standard. In Phase 1, vehicle area is proposed for a majority of the ground floor facing SW Moody. In Phase 2, the 50% requirement is met, but the commercial retail space to be constructed in Phase 2 does not meet the 25’ depth requirement.

The appeal hearing before the City Council was opened in the Council Chambers, 1221 SW 4th Avenue on January 19, 2011 at approximately 2:00 p.m. At that hearing the applicant requested the City open the record, “for the limited purpose of considering information and evidence related to the proposed use issue.” City Council agreed and allowed new evidence on the use issue to be submitted until 5:00 p.m. on January 26, 2011. All parties were able to respond to the new evidence submitted during the previous 7 day period until 5:00 p.m. on February 2, 2011. The applicant’s final argument was due on or before February 7, 2011. At the conclusion of the public hearing and after hearing public testimony, the January 19th meeting was continued to February 16, 2011. City Council reconvened on February 16, 2011 to deliberate and voted 4-0 to tentatively grant the appeal in part and deny the appeal in part and uphold the Design Commission’s decision with modifications: (1) Council determined the holding cells, processing area, and associated offices is a detention facility that requires conditional use review; (2) the Council agreed to include BDS staff’s revised conditions B and C, as well as a new condition requiring conditional use review of the holding cells, processing area, and associated offices as a detention facility. The Council directed staff to prepare findings and conclusions for February 23, 2011 at 10:30 a.m. On February 23, 2011 at approximately 10:30 a.m., Council voted 5-0 to grant the appeal in part and uphold the appeal in part of the South Portland

Neighborhood Association; uphold the Design Commission's decision with modifications and adopt findings and conclusions.

Based on evidence in the record and adoption of the Council's Findings and Decision in **Case File LU 10-145100 DZM** and by this reference made a part of this Order, City Council hereby grants in part and denies in part the appeal of the South Portland Neighborhood Association and upholds the Design Commission's decision with modifications to approve a building addition at 4310 SW Macadam Ave. Council determined the holding cells, processing area, and associated offices is a detention facility that requires conditional use review; (2) the Council agreed to include BDS staff's revised conditions B and C, as well as a new condition requiring conditional use review of the holding cells, processing area, and associated offices as a detention facility (second condition on page 2 of BDS staff 2/10/2011 memo)

DECISION

It is the decision of City Council to:

Approval for the proposal, which includes an addition to the existing building, in the South Waterfront sub-district of the Central City Plan District. The addition will be a three-story building connected to the existing four-story office building. The main entrance will be located at the northeast corner of the existing building, fronting SW Bancroft. The area between the building and future SW Moody will be mostly vehicle area and will be fenced.

Approval for a Phase 1 (or Initial Development) and a Phase 2 (or Future Development). The reason for two Phases is due to the fact that SW Moody, with streetcar, will be extended through this site and SW Bancroft will be reconfigured with the construction of the South Portal project.

Approval for the following five Modifications:

1. **Ground Floor Windows.** 33.510.220 and 33.130.230. Approval is granted for the north, south and east elevations to not comply with the length and/or area requirements of this standard.
2. **Transit Street Main Entrance.** 33.130.242. Approval is granted for the main entrance to be further than 25' from SW Bancroft.
3. **Location of Vehicle Areas.** Table 266-3. Approval is granted to allow vehicle area between the building and future SW Moody.
4. **Required Building Line.** 33.510.215. Approval is granted to allow the east building wall to be further than 12' for 75% of the lot line from future SW Moody.
5. **Ground Floor Active Use.** 33.510.225. Approval is granted to allow parking at the east elevation ground floor in Phase 1, resulting in less than 50% of the east elevation ground floor in active use. Approval is granted to allow a ground floor active use area to be less than 25' deep at the east elevation in Phase 2.


Approval with the following Conditions of Approval:

- A. As part of the building permit application submittal, the following development-related conditions (A – E) 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 10-145100 DZM. All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

- B. The applicant shall enter into a development agreement that will require property owner or designee to complete the proposed on-site SW Moody Avenue frontage improvements (noted in the approved plans as "Future Development" and including the proposed conversion of parking to ground level retail at the East Elevation and the kinetic water feature at the intersection of SW Moody and Bancroft) within 120 days of substantial completion of the adjacent half-street public right-of-way improvements. The development agreement must be executed and recorded prior to issuance of Phase I building permit.
- C. At such time as the City Council approves the street vacation of the SW Bancroft Street frontage adjacent to the subject site, the applicant will accept the vacated area and construct the proposed on-site SW Bancroft Street frontage improvements (noted in the approved plans as "Future Development") within 6 months of Council approval of the street vacation.
- D. If the building approved by this land use approval (LU 10-145100 DZM) includes a primary use subject to a Type III Conditional Use review per Table 130-1 (Detention Facility), the applicant may obtain and BDS may issue building permits only for the portion of the building addition, building renovation, and sitework that includes the primary uses allowed by right (Office and Retail Uses) once this land use decision is final. The applicant may not obtain and BDS will not issue building permits for a Detention Facility with supporting office use and associated parking until a final City decision is made on the required Type III Conditional Use and Central City Parking Reviews.
- E. No field changes allowed.

IT IS SO ORDERED:

2/28/11
Date



Mayor Sam Adams
Presiding Officer at Hearing of
February 23, 2011
9:30 a.m. Session