



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

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**NOTICE OF A PUBLIC HEARING BEFORE  
THE CITY COUNCIL ON AN APPEAL OF THE  
PORTLAND DESIGN COMMISSION**

**CASE FILE:** LU 16-265061 DZM – Studio Building and Guild Theater Alterations  
**WHEN:** WEDNESDAY, MAY 10, 2017 at 3:00 PM  
**WHERE:** COUNCIL CHAMBERS, 1221 SW FOURTH AVENUE

**Date:** April 4, 2017  
**To:** Interested Person  
**From:** Tanya Paglia, Land Use Services, 503-823-4989

A public hearing will be held to consider an appeal of the Design Commission's decision to approve the Design Review for replacement of 192 of the Studio Building's existing steel casement windows with new aluminum windows, and storefront entry alterations to the Guild Theater in the West End sub area of the Downtown sub district of Central City plan district at 901-919 SW Taylor Street. The Design Commission's decision of an **approval with conditions** has been appealed by **TMT Development Company, Inc.** At the hearing, City Council will consider the appeal. You are invited to testify at the hearing.

This will be an On-the-Record hearing, one in which new evidence cannot be submitted to the City Council. For a general explanation of the City Council hearing process please refer to the last page of this notice.

**GENERAL INFORMATION**

**Appellant:** TMT Development Company, Inc  
760 SW 9th Ave #2250  
Portland, OR 97205

**Original Applicant:** Kristen Minor  
Peter Meijer Architect PC  
605 NE 21st Ave, Suite 200  
Portland, OR 97232

**Owner:** Vanessa Sturgeon  
TMT Development Company, Inc  
760 SW 9th Ave #2250  
Portland, OR 97205

**Site Address:** 901-919 SW TAYLOR ST

**Legal Description:** BLOCK 219 LOT 3&4, PORTLAND  
**Tax Account No.:** R667723440, R667723440, R667723440  
**State ID No.:** 1S1E03BB 05700, 1S1E03BB 05700, 1S1E03BB 05700  
**Quarter Section:** 3129  
**Neighborhood:** Portland Downtown, contact Rani Boyle at 503-725-9979.  
**Business District:** None

**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.  
**Plan District:** Central City – Downtown Subdistrict – West End Subarea  
**Zoning:** CXd - Central Commercial (CX) base zone; Design (d) overlay zone  
**Case Type:** DZM – Design Review and Modification Request  
**Procedure:** Type III, with a public hearing before the Design Commission. The decision of the Design Commission can be appealed to City Council.

**Proposal:** The applicant seeks Design Review approval for exterior alterations to the Studio Building and Guild Theater. The proposed project includes the replacement of all 192 existing steel casement windows above the first-floor level of the Studio Building with new aluminum windows (Winco 3250 Series). The replacement windows generally match the original windows in style, pattern, operability, and size and will fit within the existing window openings on all elevations. The new windows will sit back within their openings in the same planar relationship to the masonry façade as existing, and the new windows will also replicate the pattern of existing multiple panes of glass.

Alterations to the Guild Theater are primarily storefront entry alterations. The proposed work includes lowering the existing entry and the existing storefront by reducing the slope from the sidewalk to the entry storefront. To take up the approximately 8” difference in height caused by lowering the grade, a new painted metal panel will be inserted above the existing storefront entry. The height of the overall opening will continue to be the underside of the painted metal marquee. The concrete entryway surface finish will be fully replaced at the inset area starting at the edge of the sidewalk. Maintaining the existing storefront and doors themselves is the goal, but if replacement proves necessary, the storefront and doors will be replaced with a new system which is as visually similar as possible to the existing.

An additional alteration proposed to the front of the Guild Theater, is the removal of an existing box office door, which is a solid door set in the brick wall surface. The opening is to be filled in with brick to match the surrounding brick (and painted, since the surrounding brick wall is painted). This door and the wall around it likely were constructed in 1956.

Note: The 9-story Studio Building has an existing rooftop mechanical unit which will be replaced by a new unit of the same general size, color, and location. This replacement has been determined to meet the Design Review exemption 33.420.045.B, “Repair, maintenance, and replacement with comparable materials or the same color of paint”.

The following Modification is requested:

- 33.510.224.C.2 *Mechanical Equipment along the Portland Streetcar Alignment* - to not provide the screening required for mechanical equipment along the Portland Streetcar Alignment as shown on Map 510-11.

Design review is required because the proposal is for exterior alterations in the Central City Plan District.

#### **RELEVANT APPROVAL CRITERIA**

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

- |  |  |
|--|--|
| ▪ 33.825, Design Review                      | ▪ 33.825.040, Modifications That Will Better Meet Design Review Requirements |
| ▪ Central City Fundamental Design Guidelines |  |

#### **DESIGN COMMISSION CONCLUSIONS**

The design review process exists to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The proposal to

rehabilitate this pair of significant buildings in Portland's downtown will bring renewed energy to the area. The proposal will allow the Studio Building and Guild Theater to retain their historic aesthetic while solving leaking, energy, and accessibility issues that will enable the buildings to remain in use. While the aluminum windows are not of the same material as the existing steel windows and their profiles are not an exact match, they will all be located on upper floors; therefore their sills will not be visible from most vantage points and their headers will be largely in shadow. Responding to feedback from the Commission at the first hearing, the Applicant's proposal evolved to a slimmer-profile aluminum replacement window design better matching the profile of the original windows than the original proposal. The alterations will thus have minimal visual impact while helping to preserve the buildings and allowing them to continue their important role in contributing to the character of downtown.

Notably, while the Commission approved the proposal, it was not unanimous. One Commissioner voted in opposition while another abstained, noting that due to the integrity and significance of the existing buildings, they would qualify for National Register listing. Those Commissioners found that the proposal diminished the integrity of the building and did not meet guidelines C3, *Respect Architectural Integrity*, or A6, *Reuse/Rehabilitate/Restore Building*. However, the majority of Commissioners found that the proposal meets the applicable design guidelines and modification criteria and therefore warrants approval with the proposed Conditions of Approval.

#### **DESIGN COMMISSION DECISION**

It is the decision of the Design Commission to approve with conditions **Design Review** for the replacement of 192 of the Studio Building's existing steel casement windows with new aluminum windows, and storefront entry alterations to the Guild Theater located in the West End sub area of the Downtown sub district of Central City plan district.

Approval of the following Modification:

- 33.510.224.C.2 *Mechanical Equipment along the Portland Streetcar Alignment* - to not provide the screening required for mechanical equipment along the Portland Streetcar Alignment as shown on Map 510-11.

Approvals per Exhibits C.1-C-15, signed, stamped, and dated 3/2/2017, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B – 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 16-265061 DZM. 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.
  - The new windows shall be Winco 3250 aluminum replacement windows on all elevations for vertical window conditions;

- The Winco 3250 aluminum windows shall also be installed in the sloping 9<sup>th</sup> level condition as elsewhere, unless these windows do not install well in the sloped condition, whereby, the Winco 1150S series can be installed instead;
- The glazing for all new windows shall have a greater clarity than the sample presented at the March 2nd 2017 hearing, with a clarity comparable to- or greater than- the Solarban® 60 Starphire glass product;
- All new windows shall feature simulated divided lights with both spacer bars and interior muntins in addition to the exterior muntins.

**E.** On the West wall, the applicant shall seek a building code appeal to install the Winco 3250 windows or retain the existing steel windows.

### **APPEAL**

The Design Commission's decision of an **approval** has been appealed by **TMT Development Company, Inc.** According to the appellants' statement, the appeal of the Design Commission's decision is based on arguments that:

The proposed window (Winco 3250) meets the Central City Fundamental Design Guidelines and the conditions of approval go beyond a reasonable interpretation of the intent of the code and result in extraneous additional costs for the owner. The two conditions of approval contested are.

1. Clarity of Glazing – The condition is that the glazing shall have greater clarity than the sample presented on March 2, 2017. The appellant states that the City erred procedurally by overlooking the glass sample in the first hearing on January 19, and not bringing up concerns at that time. In addition, the appellant contends that the conditioned glass only has a clarity 4% greater than the appellant's preferred glass and does not better align with the Central City Fundamental Design Guidelines.
2. Simulated Divided Lights – The condition is that the simulated divided lights feature both spacer bars and interior muntins in addition to the exterior muntins. The appellant contends this condition solely impacts the interior of the building which is not within the purview of the Design Commission's review of exterior alterations, and not within the scope of the Central City Fundamental Design Guideline, C3, *Respect Architectural Integrity* which states "respect the original character of an existing building when modifying its exterior."

### **APPLICATION TIMELINES**

Application Filed: October 26, 2016  
Deemed complete: December 2, 2016  
120 day expiration: May 13, 2017

Decision Rendered: March 2, 2017  
Decision Filed: March 9, 2017  
Decision Mailed: March 17, 2017

**Review of the case file:** The Design Commission's decision and all evidence on this case are now available for review at the Bureau of Development Services, 1900 SW 4<sup>th</sup> Avenue, Suite 5000, Portland, OR 97201. Copies of the information in the file can be obtained for a fee equal to the City's cost for providing those copies. I can provide some of the information over the phone.

**We are seeking your comments on this proposal.** The hearing will be held before the City Council. To comment, you may write a letter in advance, or testify at the hearing. In your comments, you should address the approval criteria, as stated above. Please refer to the file number when seeking information or submitting testimony. Written comments **must be received by the end of the hearing** and should include the case file number and the name and address of the submitter. It must be given to the Council Clerk, in person, or mailed to

1221 SW Fourth Avenue, Room 140, Portland, OR 97204. A description of the City Council Hearing process is attached.

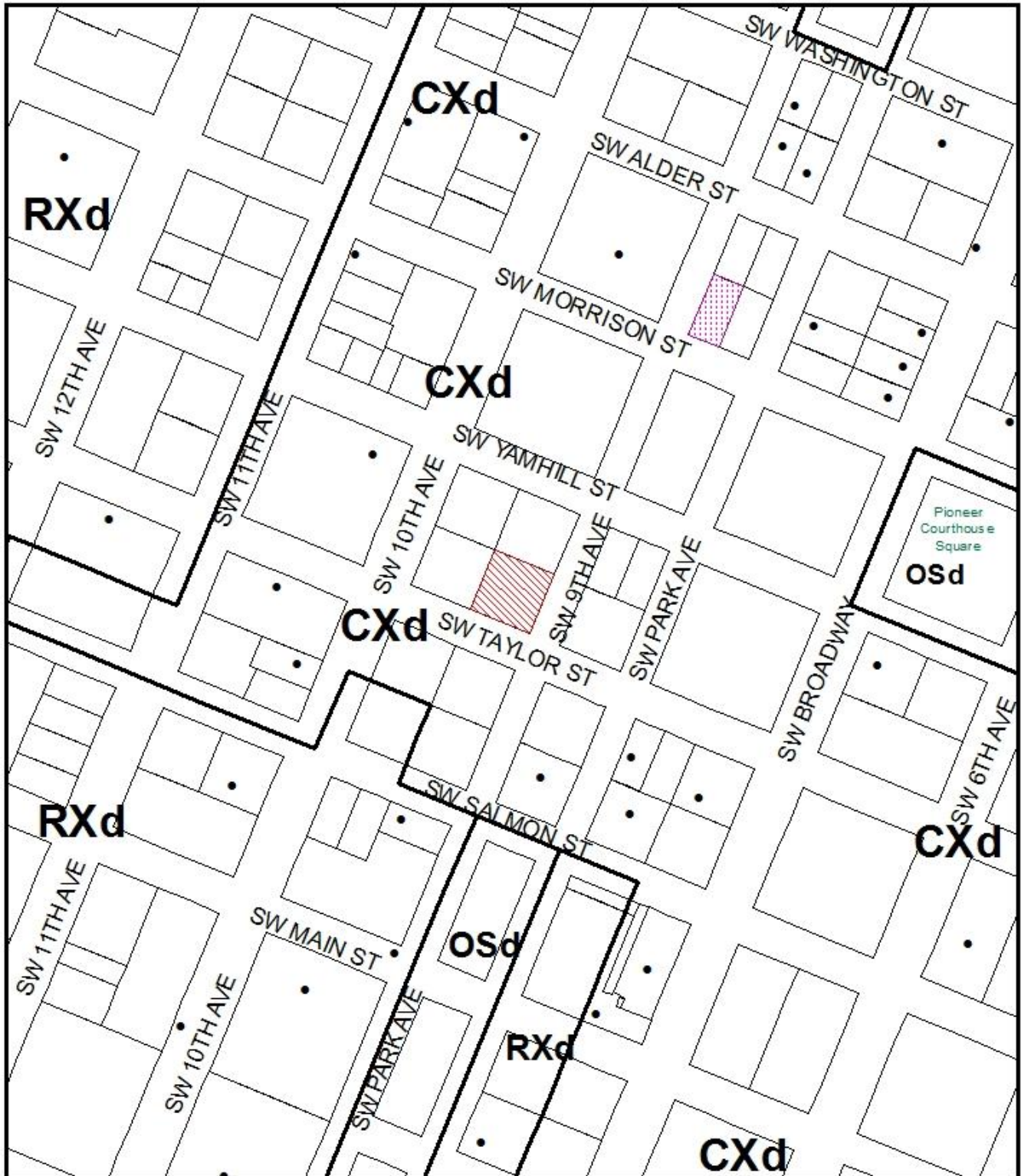
If you choose to provide testimony by electronic mail, please direct it to the Council Clerk at [karla.Moore-Love@portlandoregon.gov](mailto:karla.Moore-Love@portlandoregon.gov). Due to legal and practical reasons, City Council members cannot accept electronic mail on cases under consideration by the Council. Any electronic mail on this matter must be received no less than one hour prior to the time and date of the scheduled public hearing. The Council Clerk will ensure that all City Council members receive copies of your communication.

City Council's decision is final. Any further appeal must be filed with the Oregon Land Use Board of Appeals (LUBA). Failure to raise an issue in a hearing, in person or by letter, by the close of the record or at the final hearing on the case or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to LUBA on that issue. Also, if you do not provide enough detailed information to the City Council, they may not be able to respond to the issue you are trying to raise. For more information, call the Auditor's Office at (503) 823-4086.

**If you have a disability and need accommodations, please call 503-823-4085 (TDD: 503-823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.**

#### Attachments

1. Zoning Map
2. Site plan
3. Existing East and South Elevations / Guild Theater Proposed Storefront
4. Appeal Statement and Applicant's Exhibits
5. City Council Appeal Process



## ZONING

- Site
- Also Owned Parcels
- Historic Landmark



This site lies within the:  
CENTRAL CITY PLAN DISTRICT  
DOWNTOWN SUBDISTRICT  
WEST END SUBAREA

File No.	LU 16-265061 DZM
1/4 Section	3129
Scale	1 inch = 200 feet
State_Id	1S1E03BB 5700
Exhibit	B (Dec 02, 2016)





The Studio Building and Guild Theater are interconnected at the ground floor. Together they occupy a quarter-block in downtown Portland, at the corner of SW Taylor and SW 9th Avenue. (See yellow block on vicinity map).



**Design Review**

Studio Building, Portland OR

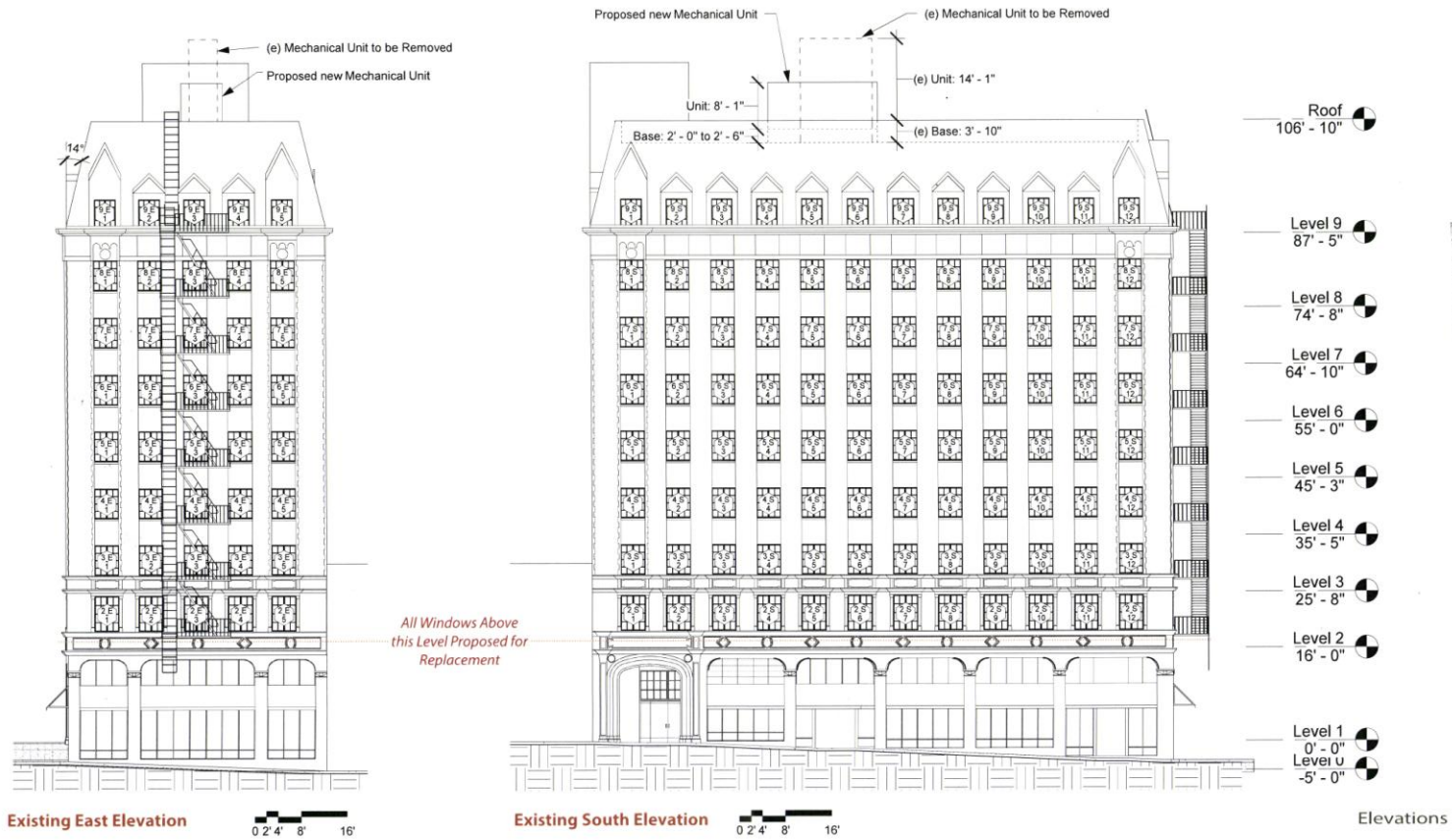
*Approved*	
City of Portland - Bureau of Development Services	
Planner <i>[Signature]</i>	Date: <i>3/21/2017</i>
* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.	

#### Studio Building and Guild Theater Building Site And Vicinity

Peter Meijer Architect  
March 2017

**A.2**

C-2

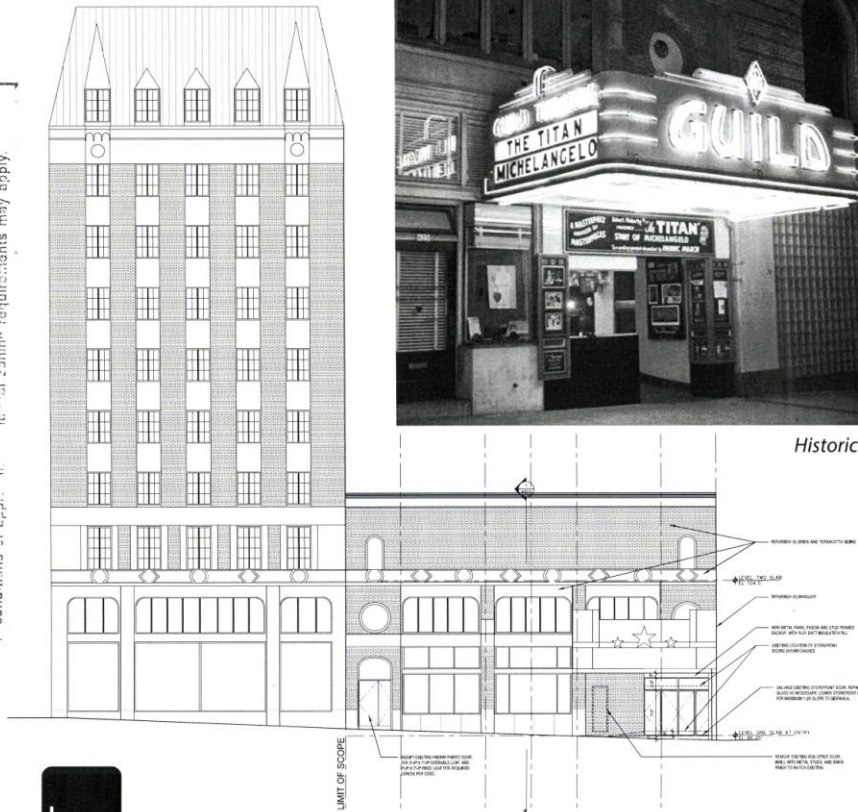


\*Approved\*  
 City of Portland - Bureau of Development Services  
 Planner [Signature] Date 3/2/2017  
 \* This approval applies only to the reviews requested and is subject to all applicable codes, rules, regulations, and zoning requirements may apply.

Scope of Proposed Work



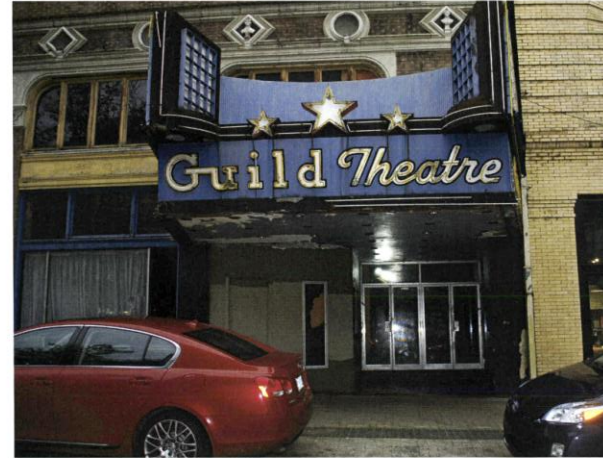
\*Approved\*  
City of Portland - Bureau of Development Services  
Planner: ggr Date: 3/12/2012  
\* This approval applies only to the reviews requested and is subject to all conditions of the official zoning requirements may apply.



### Existing East Elevation



Historic photo, 1950



*Existing Condition*



### Proposed Condition

### Guild Theater Proposed Storefront



## Design Review

*Studio Building, Portland OR*

Peter Meijer Architect

March 2017

## A.14

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### **Type III Decision Appeal Application**

**Case File Number:** LU 16-265061 DZM

PC #16-210997

Studio Building and Guild Theatre Alterations

#### **Specific approval criteria at the source of the appeal:**

Zoning Code Section 33.825.065

TMT Development is appealing the Design Commission's conditions of approval rendered on March 2, 2017 for the Studio Building window replacement project. It is our position that the proposed window (Winco 3250) meets the Central City Fundamental Design Guidelines and the conditions of approval go beyond a reasonable interpretation of the intent of the code and result in extraneous additional costs for the owner.

Our position is stated below referencing the Design Commission's conditions of approval for the Winco 3250:

1. First condition - the glazing for all new windows shall have a greater clarity than the sample presented at the March 2, 2017 hearing, with a clarity comparable to- or greater than- the Solarban 60 Starphire glass product.

During the first Design Commission meeting on January 19, a sample of the window and the glass were presented to the Commission for their review and approval. At this time, there was no mention in regards to the clarity of the glass being an issue or as being a potential condition of approval. We feel the City erred procedurally by overlooking the glass sample in the first meeting; it is not the job of the applicant to try to interpret what the Design Commission views as potential issues with its proposal and bring it their attention.

In regards to the clarity of the glass, glass clarity is based off of Visible Light Transmittance (VLT); the Solarban 60 starphire glass only has a VLT that is 4% greater than the Solarban 60 clear + clear that was proposed to the Design Commission on January 19<sup>th</sup> and March 2<sup>nd</sup>. The tint of the glass is most visible at the edges and in this application, the edges will not be seen as they will be encapsulated by the frame of the window assembly itself. Additionally, the replacement windows start on the second floor, which is 16 feet above ground level and reaches 87.5 feet at the 9<sup>th</sup> level of the building. In this application, we do not feel that a 4% greater clarity more closely aligns with the Central City Fundamental Design Guidelines.

2. Second condition - All new windows shall feature simulated divided lights with both spacer bars and interior muntins in addition to the exterior muntins.

Per zoning code 33.825.035 the Design Review Commission is entitled to review exterior alterations of a project; the interior muntins being required as a conditional approval will not be visible from the street - please see photos included as Exhibit A. The above condition solely impacts the interior of the building.

In addition, the Central City Fundamental Design Guidelines, C3 Respect Architectural Integrity, states to "*respect the original character of an existing building when modifying its exterior*". Our proposed modification to the exterior of the building is respecting the original character of the Studio building by replicating the exterior muntins of the current window.



Exhibit A

North Facing View:



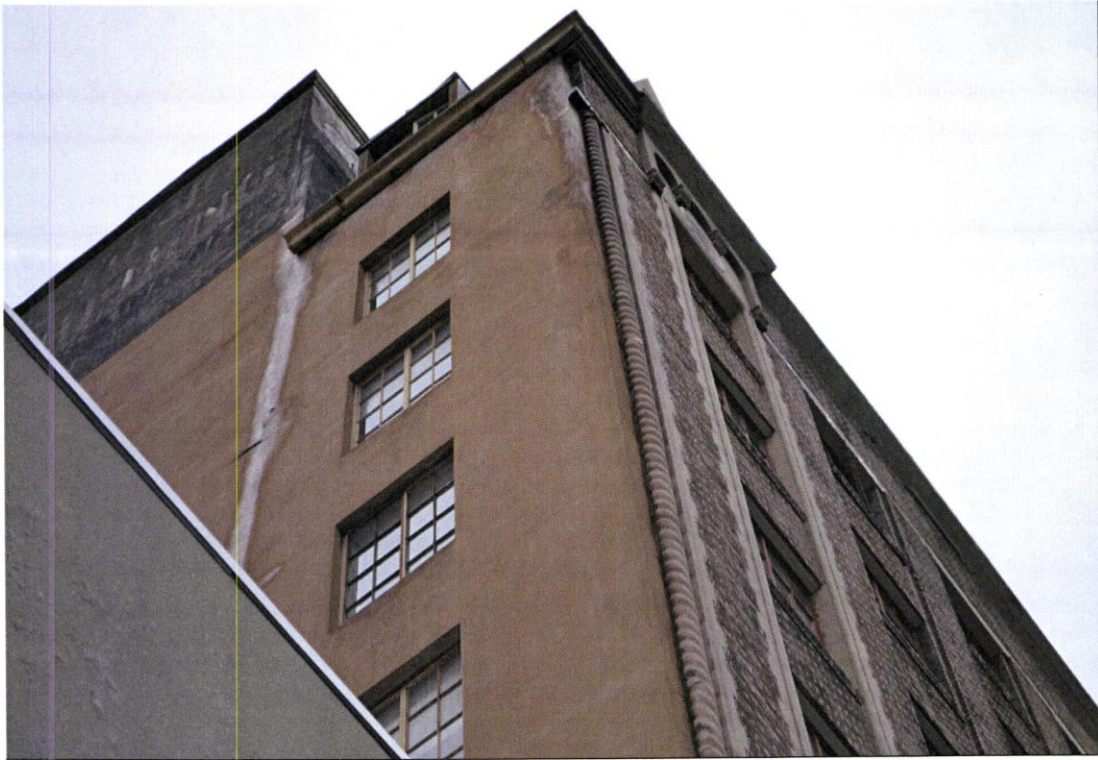
South Facing View:







West Facing View:





**East Facing View:**



**GENERAL EXPLANATION OF CITY COUNCIL APPEAL HEARING PROCESS FOR  
EVIDENTIARY/DE NOVO APPEALS**

**1. SUBMISSION OF TESTIMONY**

- a. Testimony may be submitted via email to [CCTestimony@portlandoregon.gov](mailto:CCTestimony@portlandoregon.gov) or in writing to the Council Clerk, 1221 SW Fourth Avenue, Room 130, Portland, Oregon 97204. Written comments must be received by the time of the hearing and should include the case file number.
- b. Testimony may be submitted orally (see below).

**2. HEARINGS PROCESS**

- a. The order of appearance and time allotments is generally as follows:

Staff Report	10 minutes
Appellant	10 minutes
Supporters of Appellant	3 minutes each
Principal Opponent of the Appeal	15 minutes
Other Opponents of the Appeal	3 minutes each
Appellant Rebuttal	5 minutes
Council Discussion	

- b. The applicant has the burden of proof to show that each and every element of the approval criteria can be satisfied. If the applicant is opposing the Hearings Officer's recommendation, the applicant may also argue the criteria are being incorrectly interpreted, the wrong approval criteria are being applied or additional approval criteria should be applied.
- c. In order to prevail, the opponents of the application must persuade the City Council to find that the applicant has not carried the burden of proof to show that the evidence submitted in support of the application demonstrates that each and every element of the approval criteria is satisfied. The opponents may wish to argue the criteria are being incorrectly applied, the wrong criteria are being applied or additional approval criteria should be applied.
- d. The failure to address an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals (LUBA) on that issue.

**3. OTHER INFORMATION**

- a. Prior to the hearing, the case file and the Review Body decision are available for review by appointment, at the Bureau of Development Services, 1900 SW 4<sup>th</sup> Avenue, Portland, OR 97201. Call 503-823-7617 to make an appoint to review the file.

**If you have a disability and need accommodations, please call 503-823-4085 (TDD: 503-823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.**