

CITY OF PORTLAND, OREGON



**Bureau of  
Development  
Services** FROM CONCEPT  
TO CONSTRUCTION

Land Use Review Appeal to  
**Portland City Council**

Appeal of Design Commission Decision  
of Approval with Conditions

LU 16-100496 DZM MS

**Block 290**

October 12, 2017

CITY OF PORTLAND, OREGON



Bureau of  
Development  
Services  
FROM CONCEPT  
TO CONSTRUCTION

Land Use Review Appeal to  
**Portland City Council**

Appeal of Design Commission Decision  
of Approval with Conditions

LU 16-100496 DZM MS

**Block 290**

October 12, 2017

REGULATORY  
FRAMEWORK

PROPOSAL  
SUMMARY

PROJECT  
CONTEXT

APPEAL  
SUMMARY

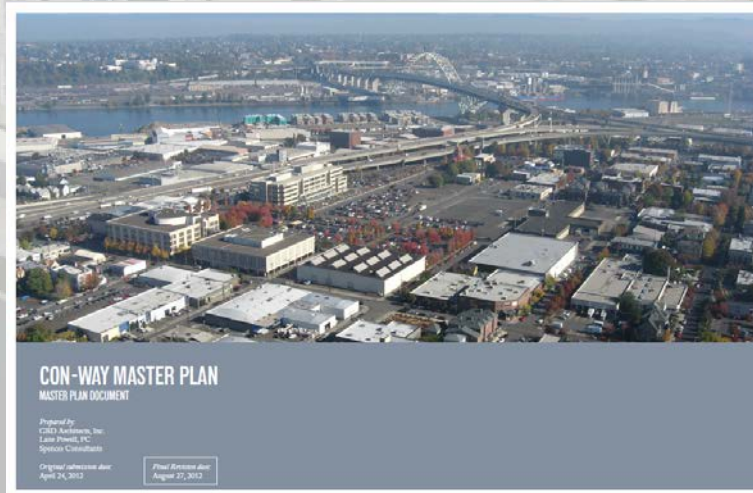
APPEAL  
RESPONSE

## Approval Criteria (FOUND TO BE MET)

- Community Design Guidelines
- Section 5 of the Con-way Master Plan
- Approval Criteria 1-3 of Section 8 of the Con-way Master Plan
- Modification Criteria (33.825.040)
  - Con-way Master Plan Standard #1*
  - Con-way Master Plan Standard #7 (C and D.2)*
  - Con-way Master Plan Standard #8 (F)*
  - Con-way Master Plan Standard #10 (B, C)*
  - 33.266.220 (Bicycle Parking Standards)*

***Council must find a nexus between the appeal findings and these Approval Criteria.***

***The Con-way Master Plan was approved August 27, 2012.***



**Type III  
Design Review  
+  
Modifications  
+  
Master Plan  
Amendment**

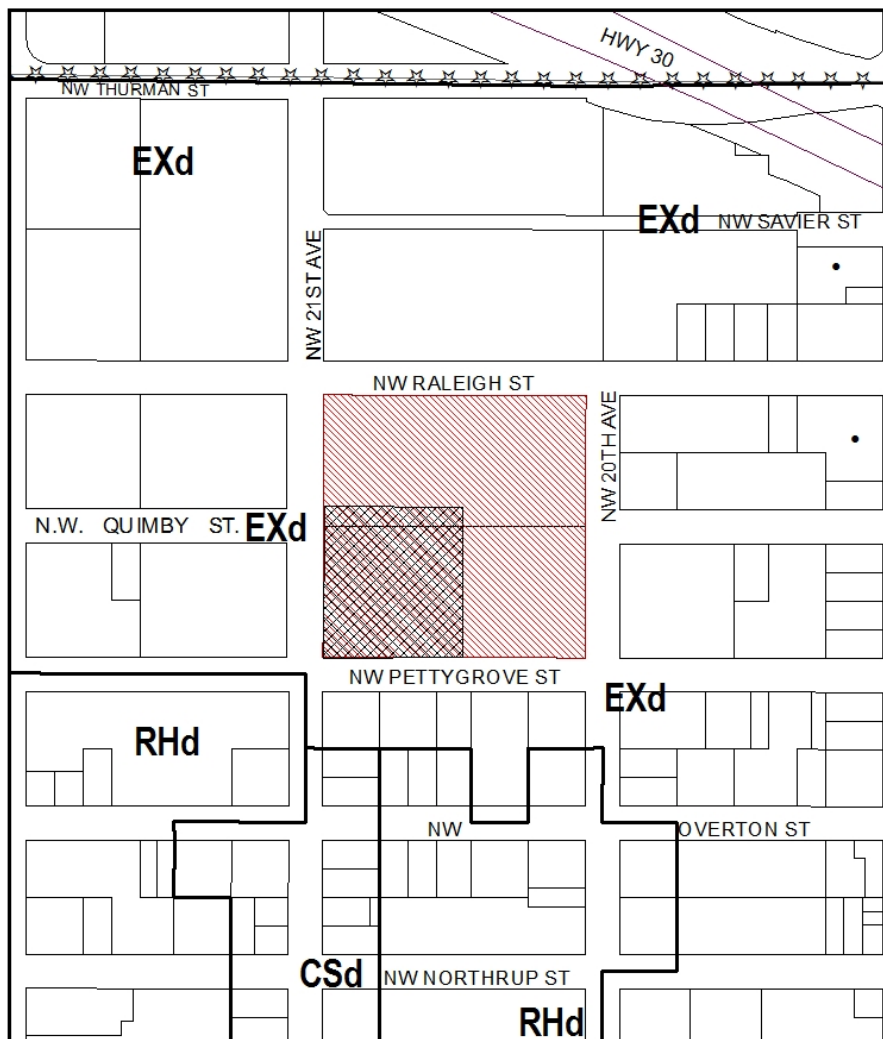
**REGULATORY  
FRAMEWORK**

**PROPOSAL  
SUMMARY**

**PROJECT  
CONTEXT**

**APPEAL  
SUMMARY**

**APPEAL  
RESPONSE**



## ZONING



This site lies within the:  
NORTHWEST PLAN DISTRICT

- Project Area
- Site
- Recreational Trails
- Historic Landmark

File No. LU 16-100496 DZM  
1/4 Section 2927 2827  
Scale 1 inch = 200 feet  
State\_Id 1N1E33BA 100  
Exhibit B (Apr 12, 2017)

## Zoning Code

### ZONING:

EXd – Central Employment  
w/ Design overlay

w/i Con-way Master Plan in  
the Northwest Plan  
District

### FLOOR AREA RATIO

3:1 max.

### HEIGHT

47' on southwest corner  
77' on east and north

REGULATORY  
FRAMEWORK

PROPOSAL  
SUMMARY

PROJECT  
CONTEXT

APPEAL  
SUMMARY

APPEAL  
RESPONSE

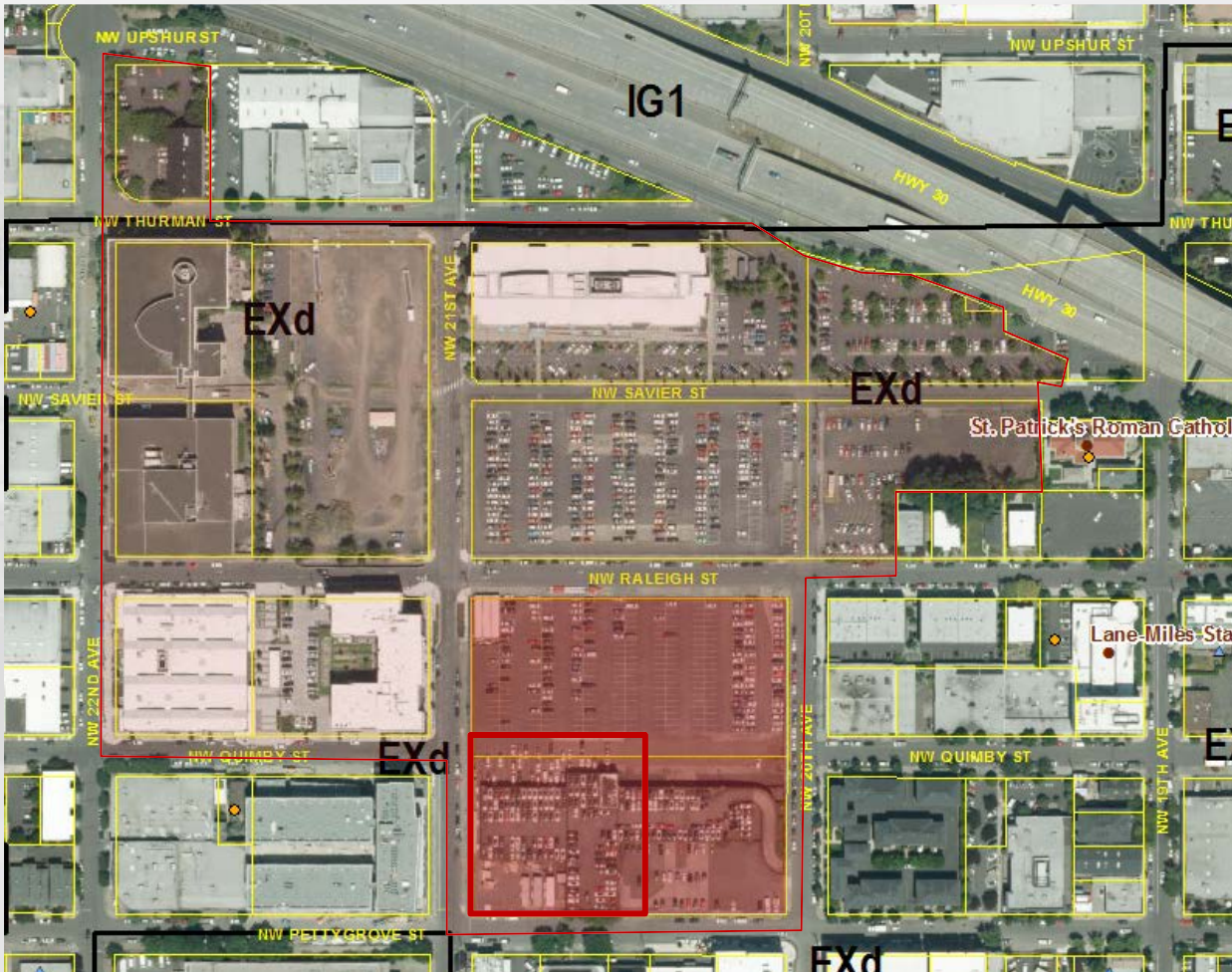


## Proposal Site

SITE AREA  
66,820 SF

EXISTING CONDITION  
1-story warehouse  
building (to be  
demolished) and  
surface parking lot

STREET FRONTAGES  
W – NW 21<sup>st</sup> Ave  
S – NW Pettygrove St  
N – NW Quimby St



REGULATORY  
FRAMEWORK

PROPOSAL  
SUMMARY

PROJECT  
CONTEXT

APPEAL  
SUMMARY

APPEAL  
RESPONSE

# Procedural History

- **PRE-APPLICATION CONFERENCE** – 1/6/2015
- **DAR #1** – 4/23/2015
  - Commission noted proposal felt like a deviation from the Master Plan
  - Neighborhood response was split
- **DAR #2** – 6/11/2015
  - Commission not comfortable with extent of encroachments
  - Commission noted desire for neighborhood support
- **DAR #3** – 8/20/2015
  - Commission acknowledged the Master Plan pressures on this block
  - Neighborhood response was split
- **LUR #1** – 5/19/2016 (Postponed – not reviewed by Design Commission)
- **LUR #2** – 5/4/2017
  - Staff Recommended Denial – Commission supported staff report
- **WORK SESSION** – 5/12/17
- **LUR #3** – 7/6/2017
  - Commission Supported Proposal with Additional Comments for Revisions
  - Record Requested to be Held Open
- **LUR #4** – 8/3/2017
  - Unanimous (5-0) Approval with Conditions
- **APPEAL #1** – 9/1/17
  - Karen Karlsson, on behalf of Northwest District Association (NWDA)



**Type III  
Historic Resource  
Review  
+  
DESIGN ADVICE (3)  
+  
LAND USE HEARINGS  
(3)**

REGULATORY  
FRAMEWORK

PROPOSAL  
SUMMARY

PROJECT  
CONTEXT

APPEAL  
SUMMARY

APPEAL  
RESPONSE



## Modifications Requested

1. Con-way Master Plan Standard #1 – to increase the maximum height from 47' to 57' for a penthouse amenity space on the lower portion of the building;
2. Con-way Master Plan Standard #7(C and D.2) – to reduce the 50' depth requirement for retail fronting on the square to 47'-2" and 49'-4" and 16'-9" at the bike facility; and to reduce the amount of retail/neighborhood facilities fronting on the square from 75% to 38% at the northern square-facing wall;
3. Con-way Master Plan Standard #8(F) – to reduce the required setback of the upper floor of the east and south façades of the east wing from 5'-0" to 0'-0";
4. Con-way Master Plan Standard #10(B, C) – to reduce the dimensions on the square at the southwest corner from 100' to 31'-6"; to reduce the clearance of the ground plane connection between the square and the park from 25' to a minimum clearance of 14'-9";
5. 33.266.220.C.3.b – to reduce the width of required long-term bicycle parking spaces from 24" to 18"; and

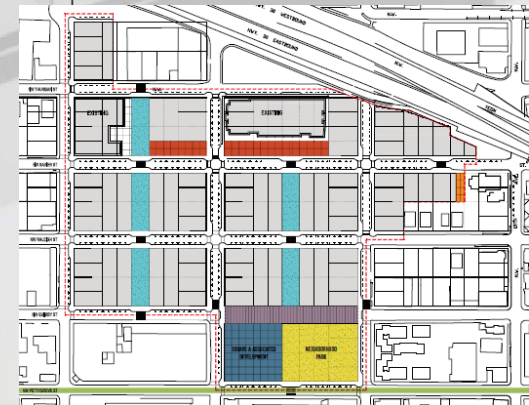
## Master Plan Amendment

1. Amend the boundaries of designated open areas and development areas by revising Map 04-7, and subsequently revising Map 05-1 and 05-6, of the Master Plan to align with the new boundaries, in order to allow the proposed development to extend 15' to the east into the westernmost portion of the designated Neighborhood Park.

## Proposal

NEW MIXED-USE BUILDING to include:

- 182,706 sf (2.73:1 FAR)
- ~9,800 sf ground floor retail
- 201 residential units (20% at 80% AMI for 10 years)
- Below-grade parking for ~109 vehicles
- Roof terrace
- Development of a publicly-accessible square, western portion of Quimby, and western portion of Neighborhood Park



REGULATORY  
FRAMEWORK

PROPOSAL  
SUMMARY

PROJECT  
CONTEXT

APPEAL  
SUMMARY

APPEAL  
RESPONSE



## Proposal

NEW MIXED-USE BUILDING  
to include:

- 182,706 sf (2.73:1 FAR)
- ~9,800 sf ground floor retail
- 201 residential units (20% at 80% AMI for 10 years)
- Below-grade parking for ~109 vehicles
- Roof terrace
- Development of a publicly-accessible square, western portion of Quimby, and western portion of Neighborhood Park



## Modifications Requested

1. Con-way Master Plan Standard #1 – to increase the maximum height from 47' to 57' for a penthouse amenity space on the lower portion of the building;
3. Con-way Master Plan Standard #8(F) – to reduce the required setback of the upper floor of the east and south façades of the east wing from 5'-0" to 0'-0";

REGULATORY  
FRAMEWORK

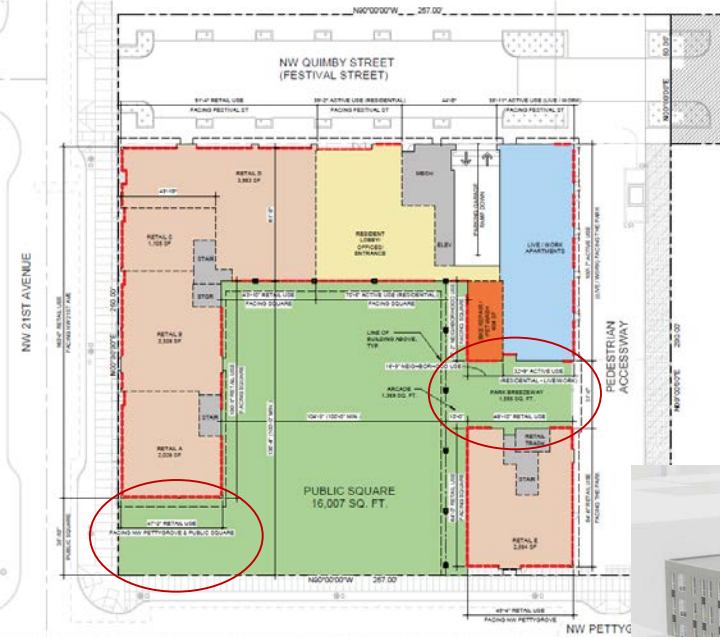
PROPOSAL  
SUMMARY

PROJECT  
CONTEXT

APPEAL  
SUMMARY

APPEAL  
RESPONSE





## Proposal

NEW MIXED-USE BUILDING to include:

- 182,706 sf (2.73:1 FAR)
- ~9,800 sf ground floor retail
- 201 residential units (20% at 80% AMI for 10 years)
- Below-grade parking for ~109 vehicles
- Roof terrace
- Development of a publicly-accessible square, western portion of Quimby, and western portion of Neighborhood Park

## Modifications Requested

1. Con-way Master Plan Standard #7(C and D.2) – to reduce the 50' depth requirement for retail fronting on the square to 47'-2" and 49'-4" and 16'-9" at the bike facility; and to reduce the amount of retail/neighborhood facilities fronting on the square from 75% to 38% at the northern square-facing wall;
2. Con-way Master Plan Standard #10(B, C) – to reduce the dimensions on the square at the southwest corner from 100' to 31'-6"; to reduce the clearance of the ground plane connection between the square and the park from 25' to a minimum clearance of 14'-9";

REGULATORY  
FRAMEWORK

PROPOSAL  
SUMMARY

PROJECT  
CONTEXT

APPEAL  
SUMMARY

APPEAL  
RESPONSE

NW 21ST AVE.

NW QUIMBY

NW QUIMBY ST.

NW QUIMBY EXTENSION

PEDESTRIAN ACCESSWAY

SQUARE

FUTURE PARK

RIGHT OF WAY

NW PETTYGROVE ST.

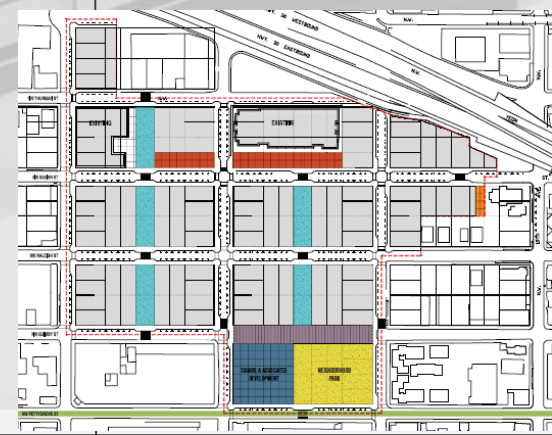
## Proposal

NEW MIXED-USE BUILDING to include:

- 182,706 sf (2.73:1 FAR)
- ~9,800 sf ground floor retail
- 201 residential units (20% at 80% AMI for 10 years)
- Below-grade parking for ~109 vehicles
- Roof terrace
- Development of a publicly-accessible square, western portion of Quimby, and western portion of Neighborhood Park

### Master Plan Amendment

1. Amend the boundaries of designated open areas and development areas by revising Map 04-7, and subsequently revising Map 05-1 and 05-6, of the Master Plan to align with the new boundaries, in order to allow the proposed development to extend 15' to the east into the westernmost portion of the designated Neighborhood Park.



REGULATORY  
FRAMEWORK

PROPOSAL  
SUMMARY

PROJECT  
CONTEXT

APPEAL  
SUMMARY

APPEAL  
RESPONSE



## Context



REGULATORY  
FRAMEWORK

PROPOSAL  
SUMMARY

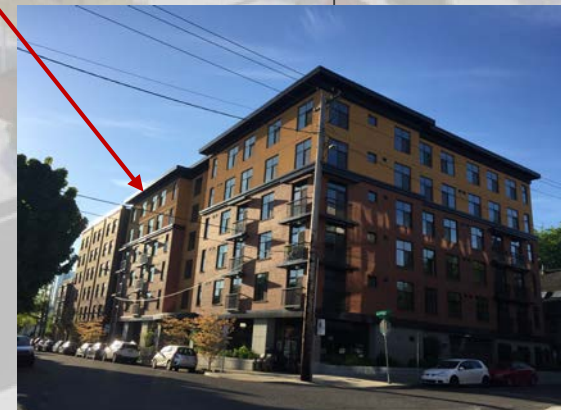
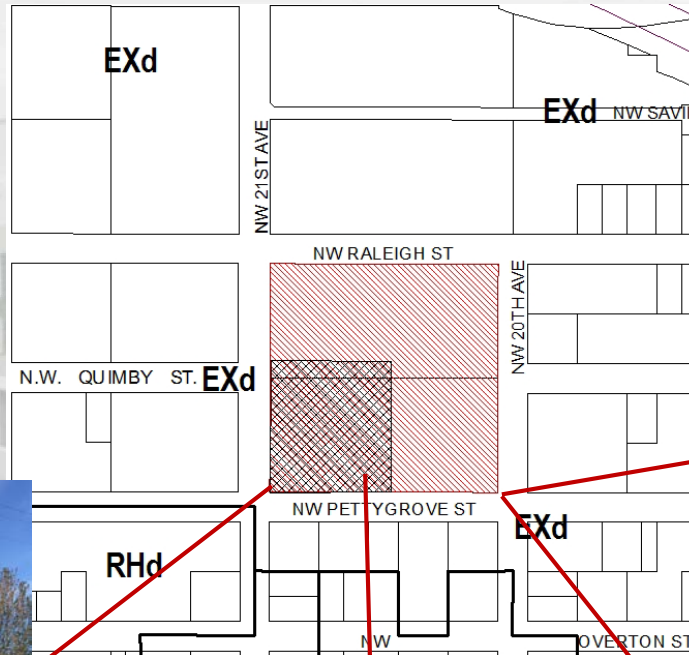
PROJECT  
CONTEXT

APPEAL  
SUMMARY

APPEAL  
RESPONSE



## Context



REGULATORY  
FRAMEWORK

PROPOSAL  
SUMMARY

PROJECT  
CONTEXT

APPEAL  
SUMMARY

APPEAL  
RESPONSE

The Design Commission voted 5-0 to Approve with Conditions:

- A. Standard Condition A – Zoning compliance page on permit set
  - B. Standard Condition B – Certificate of Compliance
  - C. Standard Condition C – “No field changes.”
  - D. Per Standard 10.D, an easement shall be provided prior to issuance of Permit allowing public access to the entire square, the entire ground plane connection, the north-south connection (for a width of 45’) and the western portion of Quimby (for a width of 60’).
  - E. The windows and louvers shall not project beyond the exterior face of adjacent cladding material.
  - F. Movable chairs and tables shall be provided, by the property owner, within the square to ensure additional opportunities for seating which are not associated with the adjacent commercial spaces.
  - G. The neighborhood bike facility shall meet the parameters of Standard 5.6.B at the time of Permit, or the use shall be converted to retail.
  - H. The bike parking shall be set at 18” on center with a 6” vertical stagger.
  - I. Per BES request, the owner/applicant must complete one of the following prior to BES approval of building permits:
    - Show the stormwater system will be located on the lot that it serves, e.g. through completion of a PLA or other method;
    - Move the stormwater system elsewhere on the site so that it does not cross a property line; or
    - Obtain approval from BDS for a plumbing code appeal to allow the stormwater system to cross a property line and obtain proper legal access from the adjacent property owner.
- Prior to permit approval, the applicant must resolve the ownership of the public sewer and easement in vacated NW Quimby St to the satisfaction of BES.
- J. The middle round bench in the middle of the square shall be eliminated. The benches shall be made of Ipé wood.

Decision



REGULATORY  
FRAMEWORK

PROPOSAL  
SUMMARY

PROJECT  
CONTEXT

APPEAL  
SUMMARY


APPEAL  
RESPONSE

# Appellant Issues

Approval Criteria are not met by the proposal.

**Requests City Council reverse the decision of the Design Commission**

Appellant states that the design falls short in the following respects:

- 
1. Master Plan Requirements in the Development Area
    - The proposal is proposing far more building area on the site than is allowed; and
    - The proposal does not provide the required public open spaces as defined in the Master Plan.
  2. Additional Master Plan Requirements
    - Openness to the Sky/Sun Exposure
    - Visual Connection to the Park
    - Enclosed Gathering Space
    - Quimby Festival Street
    - Access and Connections
    - Lively Public Realm
    - Urban Character
  3. Design Review Process Should Require Filing a New Application and did not Comply with Required Procedure

REGULATORY  
FRAMEWORK

PROPOSAL  
SUMMARY

PROJECT  
CONTEXT

**APPEAL  
SUMMARY**

APPEAL  
RESPONSE



1. Master Plan Requirements in the Development Area

- The proposal is proposing far more building area on the site than is allowed; and
- The proposal does not provide the required public open spaces as defined in the Master Plan.

Final Findings (pg. 11) – *“The proposal does not exceed the maximum FAR allowed. The Con-way Master Plan area is limited to a maximum of 3:1 FAR across the entire Master Plan area. The project site area is 260’ x 257’ for a site area of 66,820 square feet and therefore allows up to 200,460 square feet of development; the proposed development is 182,276 square feet.”*

*\*Actual approved sf is 182,706, which is still under the maximum allowed.*

Final Findings for Master Plan Amendment to remove designated open areas (pp. 31-34) – *“The proposed reconfiguration of the neighborhood park at Block 290, to allow for the expanded footprint of the proposed development on this block, will better enable the development of a vibrant square, which will be supported by the surrounding mixed use development.”*

(pg. 11) – *“...because the proposal is subject to discretionary Design Review rather than subject to clear and objective standards, per the Master Plan, standards can be modified if they are found to meet the approval criteria for a Modification. Likewise, the Master Plan provides a path for amending the Master Plan through Design Review.”*

Appellant Issues

Approval Criteria are not met by the proposal.

Requests City Council reverse the decision of the Design Commission

2. Additional Master Plan Requirements

- Openness to the Sky/Sun Exposure  
Final Findings (pg. 27) – *“The Commission finds that the proposed additional height of the western wing of the building, in order to accommodate a rooftop amenity space, is reasonable. Because the proposed pavilion is set several feet back from the parapet edge, the pavilion will be minimally visible and will not cast significant additional shadow on the square.”*
- Visual Connection to the Park  
Final Findings (pg. 29) – *“...Guideline D8 Interest, Quality, and Composition is better met by the proposal in that the architectural design concept is more cohesive by allowing the brick tube concept to extend the length of the east wing rather than jogging upward to accommodate for additional height at the breezeway.”*
- Enclosed Gathering Space  
Final Findings (pg. 11) – *“The Master Plan does not require the square to be fully enclosed.”*
- Quimby Festival Street  
Final Findings (pg. 24) – *“...the Commission acknowledged that these potential conflicts could be managed by the property owner through communication and coordination with tenants.”*
- Access and Connections  
Final Findings (pg. 24) – *“The square is designed to be accessible from both the southern edge and the eastern breezeway. It is also accessible via the adjacent retail spaces and residential lobby.”*
- Lively Public Realm  
Final Findings (pg. 27) – *“While the proposal reduces the total amount of retail/neighborhood facility along a single wall at the north of the square, the total amount of retail frontage fronting on the square is 75.8%”*
- Urban Character  
Final Findings (pg. 33) – *“The proposed reconfiguration of the neighborhood park at Block 290, to allow for the expanded footprint of the proposed development on this block, will better enable the development of a vibrant square, which will be supported by the surrounding mixed use development.”*

Appellant Issues

Approval Criteria are not met by the proposal.

**Requests City Council reverse the decision of the Design Commission**

REGULATORY  
FRAMEWORK

PROPOSAL  
SUMMARY

PROJECT  
CONTEXT

APPEAL  
SUMMARY

APPEAL  
RESPONSE

3. Design Review Process Should Require Filing a New Application and did not Comply with Required Procedure

Final Findings (pg. 12) – *“The initial application for this case was never withdrawn; it was only removed from the first scheduled hearing date at the request of the applicant. A few months later, the applicant indicated a desire to move forward with the current application but with a different architect. The significant aspects of the proposal remained the same in that the proposal was for a multi-story mixed-use building surrounding a publicly-accessible square to be developed by Guardian Real Estate. A change to the architect of record and to the architectural design of the building does not constitute a new application. However, in order to ensure adequate public involvement, a revised Notice of Proposal was issued to adjacent property owners and interested parties to inform them of the revised design and new hearing date.”*

Appellant Issues

Approval Criteria are not met by the proposal.

**Requests City Council reverse the decision of the Design Commission**





## City Council Alternatives

- 1. Deny the Appeal, and uphold the Design Commission's decision to approve with conditions** the requested Design Review (DZ), Modifications (M), and Master Plan Amendment (MS), case file #16-100496 DZM MS for the development at Block 290.
- 2. Uphold the Appeal, and request revisions to the design, thereby modifying the Design Commission's decision to approve with conditions** the requested Design Review (DZ), Modifications (M), and Master Plan Amendment (MS), case file #16-100496 DZM MS for the development at Block 290.
- 3. Grant the Appeal, overturn the Design Commission's decision to approve with conditions** the requested Design Review (DZ), Modifications (M), and Master Plan Amendment (MS), case file #16-100496 DZM MS for the development at Block 290.

REGULATORY  
FRAMEWORK

PROPOSAL  
SUMMARY

PROJECT  
CONTEXT

APPEAL  
SUMMARY

APPEAL  
RESPONSE



**End of Staff Presentation**

**REGULATORY  
FRAMEWORK**

**PROPOSAL  
SUMMARY**

**PROJECT  
CONTEXT**

**APPEAL  
SUMMARY**

**APPEAL  
RESPONSE**