



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

Chloe Eudaly, Commissioner
Rebecca Esau, Interim Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

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

CASE FILE: LU 16-100496 DZM MS (Block 290)
WHEN: Thursday, October 12, 2017 @ 2pm
WHERE: COUNCIL CHAMBERS, 1221 SW FOURTH AVENUE

Date: September 8, 2017
To: Interested Person
From: Hillary Adam, Land User Services, 503-823-3581

The Design Commission's decision of **approval with conditions** has been appealed by **Northwest District Association**.

A public hearing will be held to consider an appeal of the Design Commission's decision to approve with conditions a new multi-story residential building with ground floor retail and a public square at 1417 NW 20th Avenue. The Design Commission's decision of approval with conditions has been appealed by Northwest District Association. At the hearing, City Council will consider the appeal. You are invited to testify at the hearing.

This will be an Evidentiary hearing, one in which new evidence can 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.

Appellant: Northwest District Association
c/o Karen Karlsson
2257 NW Raleigh St
Portland, OR 97210

Applicant: Greg Mitchell, Architect
LRS Architects
720 NW Davis St Suite 300
Portland, OR 97209

Owner: Thomas Brenneke, Owner
Guardian Real Estate
760 SW 9th Ave., Suite 2200
Portland, OR 97204

Owner: Russell A Marzen, Owner
XPO Properties, Inc
1851 West Oak Parkway
Marietta, GA 30062

Site Address: BLOCK 290 - 1417 NW 20th Avenue

Legal Description: INC PT VAC ST BLOCK 291, COUCHS ADD; INC PT VAC ST BLOCK 290, COUCHS ADD
Tax Account No.: R180230010, R180230190
State ID No.: 1N1E33BA 00100, 1N1E33BA 00101
Quarter Section: 2927

Neighborhood: Northwest District, contact John Bradley at 503-313-7574.
Business District: Nob Hill, contact at nobhillportland@gmail.com.
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Plan District: Northwest
Zoning: EXd – Central Employment with Design overlay

Case Type: DZM MS – Design Review with Modifications and *potential* Master Plan Amendment

Procedure: Type III, with a public hearing before the Design Commission. The decision of the Design Commission can be appealed to City Council.

Proposal:

Type III Design Review for a new multi-story residential building with ground floor retail, below-grade parking, and a roof terrace. Proposed exterior materials include Norman brick, zinc-alloy panels, fiber cement panel, vinyl windows, aluminum storefronts, wood doors, and aluminum and glass balconies. The proposal also includes development of a publicly-accessible square and a portion of the vacated NW Quimby right-of-way.

Modifications are requested to:

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, D.1, 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

A Master Plan Amendment is requested to:

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.

Design Review is required because the proposal is for new development is a design overlay.

Relevant Approval Criteria:

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

- Community Design Guidelines
- Section 5 of the Con-way Master Plan
- 33.825.040 Modifications That Will Better Meet Design Review Requirements
- Approval Criteria 1-3 of Section 8 of the Con-way Master Plan

REVIEW BODY DECISION

It is the decision of the Design Commission to approve Design Review for a new multi-story residential building with ground floor retail, below-grade parking, and a roof terrace in the Con-way Master Plan Area. Proposed exterior materials include Norman brick, zinc-alloy panels, fiber cement panel, vinyl windows, aluminum storefronts, wood doors, and aluminum and glass balconies. The proposal also includes development of a publicly-accessible square and a portion of the vacated NW Quimby right-of-way.

Approval of the following Modification requests:

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, D.1, 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

Approval of the following Master Plan Amendment to:

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.

Approvals per Exhibits C-1 through C-121, signed, stamped, and dated August 3, 2017, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through I) 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 16-100496 DZM MS". 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. 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:
 - a. Show the stormwater system will be located on the lot that it serves, e.g. through completion of a PLA or other method;
 - b. Move the stormwater system elsewhere on the site so that it does not cross a property line; or
 - c. 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.
- K. Four additional benches shall be added to the north-south pedway (for a total of 8 benches), with some oriented perpendicular to the pedway.

APPEAL

The Design Commission's decision of an approval with conditions has been appealed by Northwest District Association. According to the appellants' statement, the appeal of the Design Commission's decision is based on arguments that:

- 1. Master Plan Requirements in the Development Area are not met
 - 1.1 Proposal Exceeds the Maximum Allowable FAR;
 - 1.2 Proposal Fails to Provide the Required Public Spaces
- 2. Additional Master Plan Requirements are not met, including:
 - 2.1 Openness to Sky/Sun Exposure
 - 2.2 Visual Connection to the Park
 - 2.3 Enclosed Gathering Space
 - 2.4 Quimby Festival Street
 - 2.5 Access and Connections
 - 2.6 Lively Public Realm
 - 2.7 Urban Character
- 3. Design Review Process Should Require Filing a New Application and did not Comply with Required Procedure.

The appellant states that the proposal does not satisfy Con-way Master Plan standards 1, 7.c, 7.D.2, 8.F, 10.A, 10.B, 10.C, Con-way Master Plan Guidelines 7.B and 7.C, the Modification approval criteria (33.825.040), or the Master Plan Amendment approval criteria (Con-way Master Plan Section 8, 1-3).

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 4th 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.

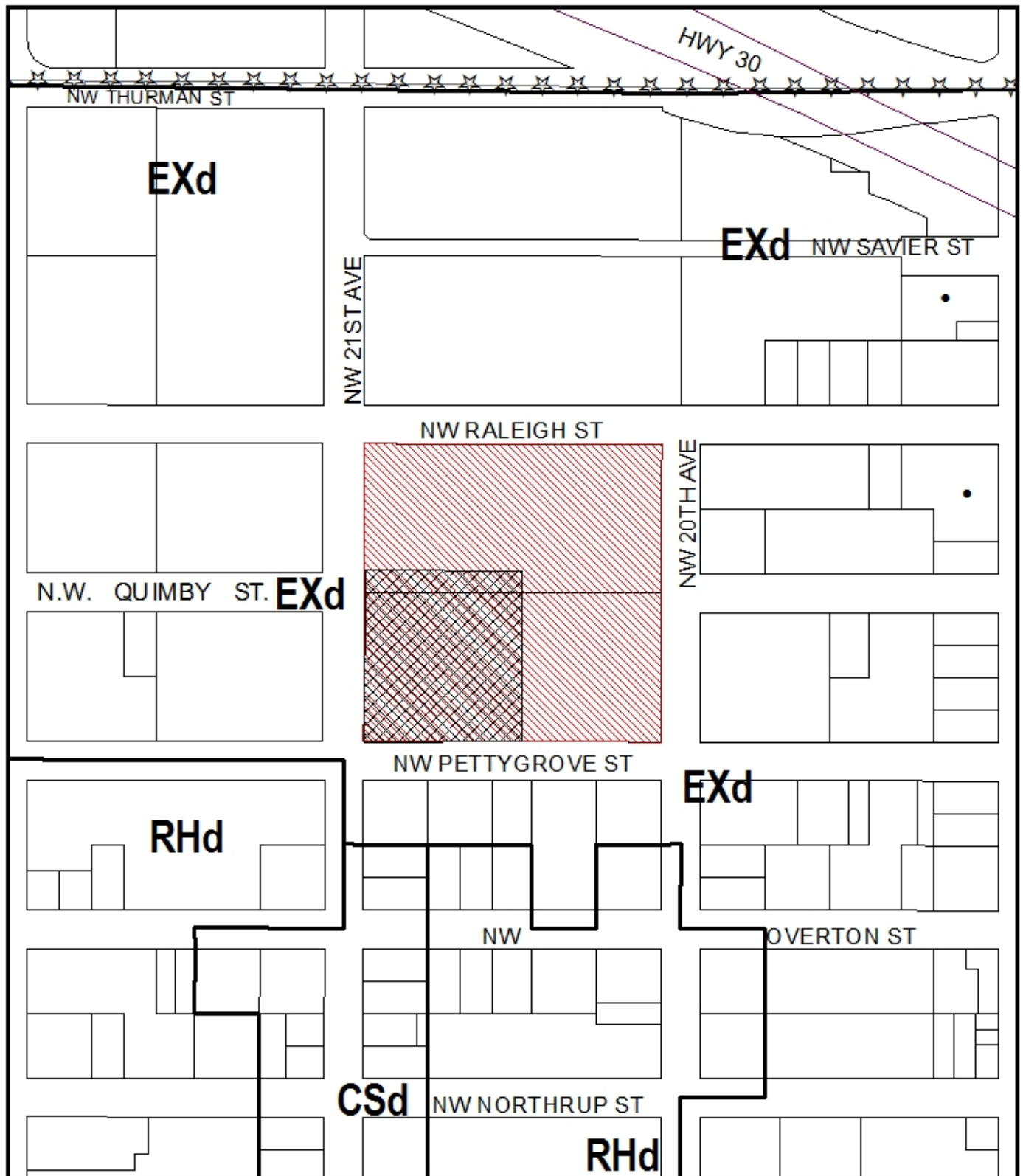
If you choose to provide testimony by electronic mail, please direct it to the Council Clerk at karla.Moore-Love@portlandoregon.gov. Due to legal and practical reasons, City Council members cannot accept electronic mail on cases under consideration by the Council. Any electronic mail on this matter must 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. Elevations
4. Appeal Statement
5. City Council Appeal Process



ZONING

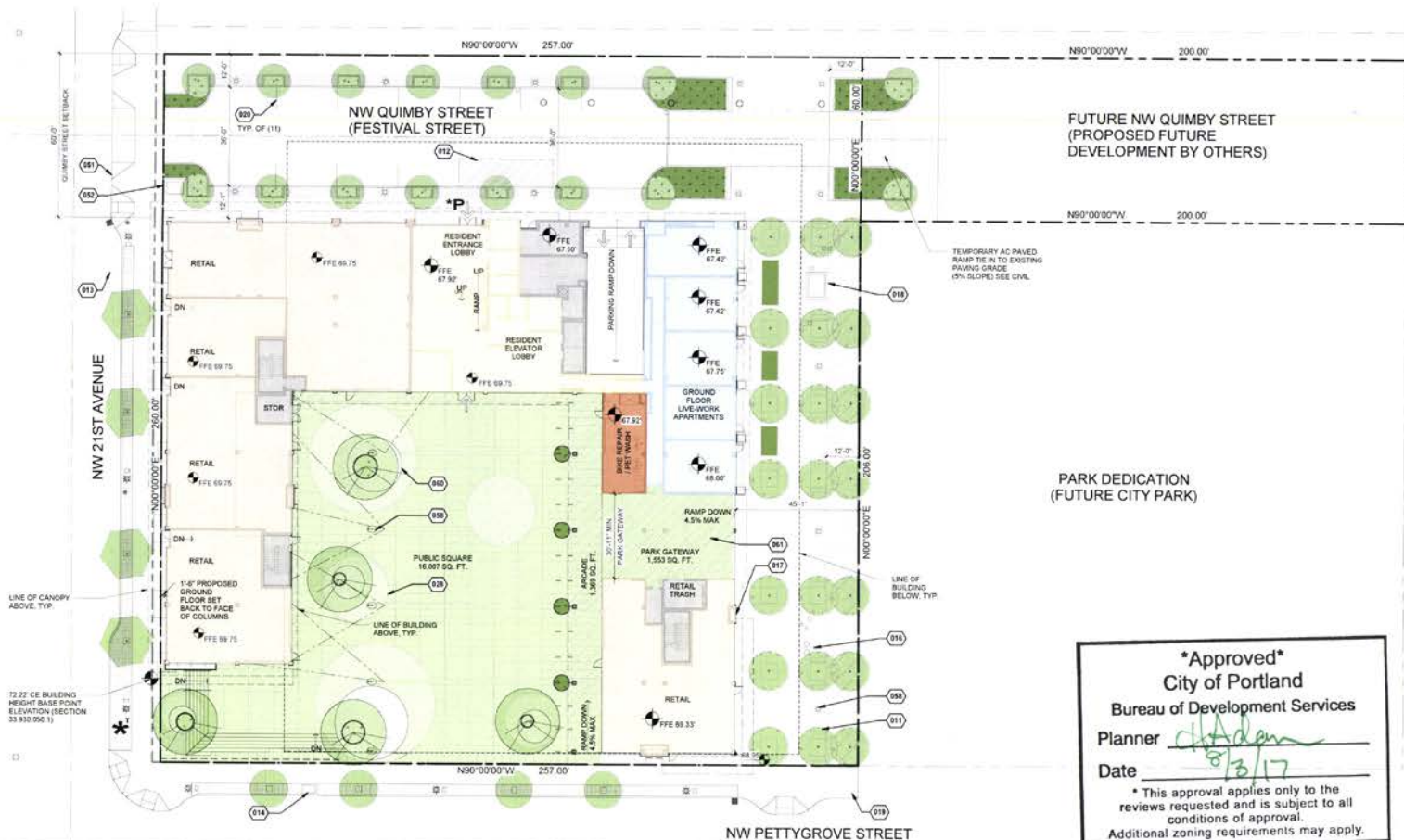


This site lies within the:
NORTHWEST PLAN DISTRICT

-  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)

LU 16-100496 DZM MS - BLOCK 290 APARTMENTS



GENERAL NOTES:

- SITE INFORMATION IS BASED ON OWNER'S SURVEY DATED 10/21/16, BY HARPER HOUR PETERSON RIGHELLI INC.
- TYPICAL CURB RADIUS IS 3'-6" AT ASPHALT SIDE OF CURB VON.
- BUILDING AND CURBS ARE PARALLEL OR PERPENDICULAR TO THE WEST PROPERTY LINE.
- REFER TO LANDSCAPE AND CIVIL DRAWINGS FOR SIDEWALK AND PAVING LAYOUT INFORMATION.
- LANDSCAPE AND STREET TREES SHOWN FOR REFERENCE ONLY. REFER TO LANDSCAPE PLANS FOR ADDITIONAL INFORMATION.

LEGEND

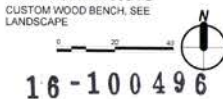
- SPR LAYOUTS
- SPR PROPERTY BOUNDARY
- REAR/STREET CORNER BUILDING FOOTPRINT
- LINE WORK REMAINING LOTS
- FIELD WORK/PROPOSED LOTS AND PROPERTY BOUNDARY
- RETAIL BUILDING AREA
- PUBLIC SQUARE
- LANDSCAPE PLANTER AREA - SEE LANDSCAPE PLAN
- LANDSCAPE AND STREET TREES - SEE LANDSCAPE PLAN
- TRANSIT STOP
- BUILDING/STREET LIGHT TOWER
- REAR/STREET CORNER BUILDING FOOTPRINT

KEYNOTES

- 011 BICYCLE RACK, SHORT TERM. SEE DETAIL.
- 012 LOADING ZONE - (1) STANDARD 'A' SPACE, 35'-0" X 10'-0" W/ 13'-0" OF VERTICAL CLEARANCE, PER PORTLAND ZONING CODE 33.286.310.
- 013 SANITARY SEWER CONNECTION. SEE CIVIL.
- 014 DOMESTIC WATER LINE CONNECTION AND METER. SEE CIVIL.
- 015 GREASE INTERCEPTOR. SEE CIVIL.
- 016 GAS METER. SEE CIVIL.
- 017 PGE TRANSFORMER VAULT. SEE CIVIL.
- 018 PGE VAULT. SEE CIVIL.
- 019 PARALLEL PARKING SPACE 22'-6" X 8'-0". SEE LANDSCAPE.
- 020 DECORATIVE PAVING. SEE LANDSCAPE.
- 051 FIRE LINE CONNECTION. SEE CIVIL.
- 052 FIRE LINE BACKFLOW PREVENTER VAULT. SEE CIVIL.
- 058 ORNAMENTAL SITE LIGHT FIXTURE. SEE LANDSCAPE.
- 060 CUSTOM PLANTER AND WOOD PLATFORM. SEE LANDSCAPE.
- 061 CUSTOM WOOD BENCH. SEE LANDSCAPE.

Approved
City of Portland
 Bureau of Development Services
 Planner *claden*
 Date *8/3/17*
 * This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.

**see Cond. J+K*



16-100496

SITE PLAN

3.1 LRS ARCHITECTS

JUNE 22, 2017

C-31

LU 16-100496 DZM MS - BLOCK 290 APARTMENTS



EXTERIOR ELEVATIONS - NORTH (OPTION B)

4.6B LRS ARCHITECTS

JUNE 22, 2017

C-67

LU 16-100496 DZM MS - BLOCK 290 APARTMENTS



Approved
City of Portland
 Bureau of Development Services
 Planner [Signature]
 Date 8/3/17
 * This approval applies only to the reviews requested and is subject to all applicable codes and rules.
 Additional zoning rules apply to this project.



16-100496

EXTERIOR ELEVATION - EAST (PARK/PEDESTRIAN WAY)

4.7 LRS ARCHITECTS

C-68

LU 16-100496 DZM MS - BLOCK 290 APARTMENTS



108'-0"
WALL BEYOND SEE # 11 SOUTH ELEVATION SQUARE



Approved
City of Portland
Bureau of Development Services
Planner [Signature]
Date 8/3/17
* This approval applies only to the reviews requested and is subject to all conditions of approval.
Additional zoning requirements may apply.



EXTERIOR ELEVATIONS - SOUTH (NW PETTYGROVE)

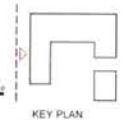
16-100496
4.8 LRS
ARCHITECTS

C-69

LU 16-100496 DZM MS - BLOCK 290 APARTMENTS



Approved
City of Portland
 Bureau of Development Services
 Planner Adam
 Date 8/3/17
 * This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.



16-100496

EXTERIOR ELEVATIONS - WEST (NW 21ST AVE)

4.9 LRS
 ARCHITECTS

C-70



City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 | 503-823-7300 | www.portlandoregon.gov/bds



Type III Decision Appeal Form

LU Number: 16-100496 DZM

FOR INTAKE, STAFF USE ONLY

Date/Time Received 9/1/2017; 4:00 PM ☒ Action Attached
 Received By AP Fee Amount \$5,000.00
 Appeal Deadline Date 9/1/2017 ☒ [N] Fee Waived
☐ Entered in Appeal Log Bill # 4183683
☐ Notice to Auditor ☒ [M] Unincorporated MC
☐ Notice to Dev. Review

APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS BLOCK 290 - 1417 NW 20th Avenue DEADLINE OF APPEAL 09/01/15

Name Northwest District Association

Address 2257 NW Raleigh St City Portland State/Zip Code OR 97210

Day Phone 503-227-5000 Email karen@klkarlsson.com Fax _____

Interest in proposal (applicant, neighbor, etc.) Neighborhood Association

Identify the specific approval criteria at the source of the appeal:

Zoning Code Section 33. see below Zoning Code Section 33. _____
 Zoning Code Section 33. _____ Zoning Code Section 33. _____

Describe how the proposal does or does not meet the specific approval criteria identified above or how the City erred procedurally:

Approval Criteria at Source of Appeal: Section 5 of the Con-way Master Plan, 33.825.040 Modifications That Will Better Meet Design Review Requirements, Approval Criteria 1-3 of Section 8 of the Con-way Master Plan

See attached narrative.

Appellant's Signature [Signature]

FILE THE APPEAL - Submit the following:

- ☒ This completed appeal form
- ☒ A copy of the Type III Decision being appealed
- ☒ An appeal fee as follows:
 - ☐ Appeal fee as stated in the Decision, payable to City of Portland
 - ☒ Fee waiver for ONI Recognized Organizations approved (see instructions under Appeals Fees A on back)
 - ☐ Fee waiver request letter for low income individual is signed and attached
 - ☐ Fee waiver request letter for Unincorporated Multnomah County recognized organizations is signed and attached

The City must receive the appeal by 4:30 pm on the deadline listed in the Decision in order for the appeal to be valid. To file the appeal, submit the completed appeal application and fee (or fee waiver request as applicable) at the Reception Desk on the 5th Floor of 1900 SW 4th Ave, Portland, Oregon, between 8:00 am and 4:30 pm Monday through Friday.

The Portland City Council will hold a hearing on this appeal. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

Attendees:

- **Members** - Greg, Steve, Dennis, Bill, Parker, Don, JoZell
- **Non Members** - Sharon Kelly, Alan Claussen, Bob Baker,

NWDA Planning Committee August 10, 2017 8:00 – 9:00
CoHo Theater Lobby, 2257 NW Raleigh

8:00 Announcements:

- **LURs:**
 - o LU 17-177871 HR – Exterior Alterations & New Sign, Type II administrative review. 619-527 NW 21st. New Dosha salon. Comments due 8/28/2017 (**comment??**)
- **Pre-aps**
 - EA 17-206215 NW Kearney & NW 22nd, to discuss development of an 18-unit multi-dwelling building on a vacant lot. Type III HR review, Mike Osterman applicant, 503-799-2189 **AUGUST 15, 10:30 AM**
 - o This is the historic garden lot behind Karen/Rick's office
 - o Large building on small lot
- **Early Assistance**
- **Additional items**
 - Code Reconciliation Neighborhood Notice
 - o Submitted comments and will be tracking results, no individual status
 - Tree Replacement updates
 - o Cathedral - Discussion of current status – individuals to go review current status. Elms are going, question on replanting
 - o No update on Glisan/23rd tree removal request
 - o No update on tree status overall – Page not able to pick up until Sept

Block 290

- Design committee approved
- No changes to the committee feedback
 - Motion to Appeal to City Council – Greg – Don – unanimous
 - Motion to initiate sub committee to manage/prepare appeal – consist of Don, Steve, Greg, Karen as members – non voting consultants Ron, Suzanne – regular updates, assuming late October, early November action. This movement will include both standards and policy
 - Greg – Bill – unanimous
 - Will the appeal effect the actions of the developers – 18th is 17 days out for published decision, 14 days to appeal – so develops actions not initiated until after that time
 - Discussion on appeal process, design costs, appeal costs and stepwise actions,

LU 17-188551 HR – Façade and roof Alterations to a Historic Warehouse, Building 112 NW 20th Ave, (August 10 deadline) Colin Maclean 503 807-1646

- removal of the non-historic T-111 siding at the ground floor;
 - installation of a glass garage door at the north and central bays of the building;
 - installation of steel panels at the north and central bay;
 - installation of a glass sidelight and large steel pivot door at the south bay;
 - removal of a metal cornice cap and restoration of brick below and
 - removal of a portion of the southwest roof, in a manner that is not visible from the public right-of-way, to create an open space with the building's historic truss running through it.
- Colin Maclean in attendance
- Long term Portland resident, looking for an opportunity to move into NW Portland, moving warehouse to residential, history of restoring historic building(Bishop house behind vista spring), Goal for the building is to keep the building historical, visual presentation
 - o Discussion of building
 - Maintain gallery space and 2 bed apartment on main floor, 2nd floor 2 bedroom loft style apartment
 - Living in back due to fred meyer loading zone noise in the front

- Keep original stair access, trusses and water car elevator
- Questions
 - Challenges from landmark commission?? Garage door and removal of t1 siding – they wanted to honor the format of the lighting – so that the windows upstairs had a horizontal trim that unified the structure. Protecting the pedestrian view of the building. Bringing it back to an original theme
 - Frosted glass on the front doors – yes
 - Replacing aluminum windows – less consistent about replacing windows than ensuring window structure – visual – did not want to completely remove glass – so goal is to leave as is – discussion is connection to street and air flow. Original window discussion with double pane would cut more noise. Historic street car garage next door does not have glass windows. Recommendation to look for historic pictures to justify window and history
 - Discussion of cornice restoration – remove sheet metal, reroof complete building, replace skylights and then tuckpoint the brick work with metal coping at the top.
 - Square points are accents – which may have held goose neck lights in the past
 - Establishing a 2nd apartment on the ground floor – 5 foot alley in the back – light and air to ground floor – no view look out on brick wall – element of the city living – blind walls north and south.
 - Maintaining the skylights? 2 rear ones come out because they are bedroom, ones in front will be replaced by open area, large ones in the middle will be retained.
 - Actions – trying to do roof this year but based on building permit process – if too long then will go to next year.
- Comment – no formal motion but support of using the building as a residential

LU 17-182064 HR Façade Renovation to non-contributing building, 524 NW 23rd, former Moonstruck Chocolates site (August 14 deadline)

- Laurie in attendance
- Building being repaired from explosion in 2016
- Changes
 - Recladding outside in white tile
- Questions
 - Changes in the tenants – no – moonstruck and jewelry on the first floor – office in the 2nd
 - This permit is only the façade changes – a 2nd permit for repairing the original layout for the internal
 - Building – build in 50's, updated in 90's (additional of cornice work – but not integrated into actual structure)
 - Additional of flag signs over entrances
 - Discussion of materials, application
 - "Eyebrows – Brazilian mahogany – IPE, above entry and above 2nd floor windows
 - Will age to unfinished teak (driftwood grey) – can add oil to keep the robust wood color
 - Is not going to be front so protected from the weather
 - Applied with anti-graffiti coat to protect building – will come off easy – need to refinish –
 - White tile presented as base accent – central area, base accent above windows
 - Simple design
 - Lighting tiny downlights in lower entry – rather than large flood as historic
 - Larger windows from original to allow more store front visualization
 - Motion to support the update – Bill – Steve – vote unanimous
 - John to send a letter of support to request

Sharon Kelly – question about mural 25 and lovejoy – has it gone through mural committee

- Currently going up now – did it go through a community review? – there is a process for a mural committee – we have not been notified about the Lovejoy and 25th
- Painting over exposed brick

Bob Butler - Broker Bob – Neighborhood activist – regarding Arcade that will be created by south side stadium

- His personal business used to be 21st and Everett then moved to goose hollow

- Concern – Stadium expansion creates an arcade
 - Creates a shelter about 400 feet long 13/17 feet wide – with current “camping” laws will create a homeless area of camping and neighborhood concern
 - Turn the street into a slumland with homeless occupation – available shelter
 - Is the committee considering a LUBBA appeal?
 - Current committee member – Ron Walters is not here today – suggest that Bob get in contact with Ron to discuss
 - Needs to be appeal to city council
 - Special step for putting a building over public right away
 - Burnside arcades – on east time are examples
 - Request for more formal opposition for the arcade
 - Discussion that the public right away should not be given away to the sports facility
 - City does own the structure – but the streets are not part of the facility and can lease out
 - Parker – 2 comments
 - Neighborhoods can request modification of city laws based on their zones
 - Current eastside request from alameda
 - Street beats – community must request the beat cops to walk up and down the streets

As envisioned in the Con-way Master Plan, Block 290 is the centerpiece of the Slabtown area and of the NW neighborhood. The public park and square, known as "Slabtown Square", were two of the primary components of the entire Con-way Master Plan agreement, as adopted by City Council in 2012. In describing the Overall Scheme, the plan states that open space is to be a "significant component" of the plan and that "25% of the total land area" is designated for open space that will be "accessible to the public." P15. The term "public" has meaning in this plan and requires more than just public access, it means providing a square that is visible, iconic, active, maximizes sun access and is integrated into its surroundings. Accomplishing the objectives identified in the master plan provide a once-in-a-generation opportunity to create priceless public assets. The Design Commission's approval of multiple modifications, along with a Master Plan Amendment in LUR 16-100496 DZM MS, compromises these objectives and agreements between NWDA, Con-way and the City Council.

The NWDA is appealing the decision on LUR 16-100496 DZM MS Block 290W because we believe that the Master Plan agreement is not being kept. We are appealing the Design Commission's decision because we believe that the current development proposal fails to meet the requirements of the Con-way Master Plan in two fundamental ways:

- 1. It is proposing far more building area on the site than is allowed, and secondly,**
- 2. It does not provide the required public open spaces as defined by the Master Plan.**

Furthermore, we believe that the Design Review process, in approving this proposal, did not follow the well-defined approval process and criteria for this type of review.

Background

The Square's recommended features were drawn from successful and iconic squares in Europe and South America. The Master Plan called for a square that balanced openness against enclosure, was contextual and recognized the relationships to adjoining areas, the necessity for sunlight, and required commercial uses on the ground floor. The DR approval allows for a reduction in the required Square open space by more 6,000sft. Modifications that allow an increase in the developable floor area by more than 40,000sft restrict the public's ability to not only access, but also see into the square and to realize that it is a public, rather than a private amenity. Modifications to increase the building height and additional density compromise the solar access objectives. Finally, much of the ground floor retail, necessary to provide an active and engaging square, has been removed.

The Northwest Portland community is invested in the potential of the Square and its associated public benefits. Extensive community outreach identified a public square as a high priority for those who live and work here. To achieve the vision of public open space, the Master Plan limits FAR on this site and grants more height, greater floor area ratio (FAR) on commercial development and transferable FAR in other blocks in Slabtown. The community trusted that by giving additional height, greater floor area and creating a transferable development scheme elsewhere within Con-way/Slabtown, the community would realize the benefit of a truly iconic, recognizable public square. Having struck a fair agreement in the Master Plan in 2012, the applicant should not be allowed to change the terms in 2017.

Unfortunately, the development approved by the Design Commission does not satisfy the Master Plan, or the criteria to amend or adjust the Master Plan, but rather is merely "... a proposal that is financially feasible." Portland Zoning Code 33.825.055 requires a finding of compliance with all of the design guidelines for the area including the Community Design Guidelines as well as the NW Master Plan Design Standards and Guidelines. Although a number of modifications to these standards are proposed, the criteria for granting the modification as set forth in ZC 33.825.040 are not satisfied. Finally, the criteria for amending the Master Plan, ZC 33.562.300(G), are not met. More specifically, this design falls short in the following respects:

1. Master Plan Requirements in the Development Area

- 1.1. Proposal Exceeds the Maximum Allowable FAR
- 1.2. Proposal Fails to Provide the Required Public Spaces

2. Additional Master Plan Requirements

- 2.1. Openness to the Sky/Sun Exposure
- 2.2. Visual Connection the Park
- 2.3. Enclosed Gathering Space
- 2.4. Quimby Festival Street
- 2.5. Access and Connections
- 2.6. Lively Public Realm
- 2.7. Urban Character

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

Based on the details described below and touched on above, the proposal fails to satisfy Master Plan standards 1, 7.C, 7.D.2, 8.F, 10.A, 10.B, 10.C, and Guidelines 7.B, 7.C. In sum, the requested Master Plan Modifications do not better meet the design guidelines and purpose of the standards. In addition, the Master Plan Amendment:

- **Is not** consistent with the approved Con-way Master Plan's vision and purpose;
- The urban design elements provided in the purpose statements of the Design Standards and Guidelines of the approved Con-way master plan **do not** continue to be met after the amendment(s).

Conclusion

For the reasons set forth above, the proposal therefore fails to satisfy the design review standards, the criteria for modifying these standards or the requirements for amending the plan. In sum, the applicant has forced too much private development onto a site that was to be protected for public amenities, particularly a square. Many of the applicable standards inter-relate and overlap but the Design Commission erred by adopting findings that failed to respond to each standard. Moreover, the Design Commission's erred by focusing on the incremental nature of the modifications. What the DC viewed as small increases in building height, reduction in the amount of retail, reducing the size of the square and an encroachment into the park when viewed on their own may not seem significant, when considered together they represent a significant deviation from the vision for the whole.

1. Master Plan Requirements in the Development Area

1.1. Proposal Exceeds the Maximum Allowable FAR

As described in the Master Plan, this is a 200ft by 200ft site with height limits of 47ft and 77ft and a requirement to build a 16,000sf public square. The proposed design utilizes the density intrinsic in the site plus more. The Con-way Master Plan allows floor area to be transferred between development sites per Standard 5.4. The maximum FAR on any development site is limited, however, by the maximum allowable building height, per Standard 5.1, *and* any setbacks or other limitations on the buildable footprint of the site. On Block 290W, the maximum allowable floor area is ~144,600sf. The current proposed has a floor area of 184,589sf. ***This exceeds the maximum allowable floor area by ~40,000sf, or 27%.*** Furthermore, this excess floor area is achieved by ***proposing to build private development in designated public park area.*** This design fails to respond to the values identified in the plan and fails to provide a building that is compatible with regard to massing and proportion as required by Community Design Guideline P1 and D7. This similar requirement is found in NW Master Plan Design Standard 8.F and Guideline 1 and 4, which focuses on "human scale."

The applicant has included the transfer of density from two adjoining public open spaces which is allowed under the Master Plan but unfortunately, developing this site with this additional density is virtually impossible without violating the Master Plan.

This violation of the Master Plan is achieved by:

- Buildings that exceed height and setback limitations
- Buildings with too large a footprint
- Too much building height

The purpose of the building height limitation was to protect the size and accessibility of the square. Granting a modification to the building height standard that further encloses the square and compromises the solar access is not mitigated by the provision of commercial retail, a requirement in any event, and a rooftop amenity that is not open to the public. The modification to Con-way Master Plan Standard #1 is not justified.

1.2. Proposal Fails to Provide the Required Public Spaces

The Con-way Master Plan requires the creation of three public open spaces on Block 290: 1.) a public park on the eastern 260' x 200', 2.) a 16,000sf public square located within the western 197' x 200', and 3.) a public festival street in 460' x 60' former right of way to the north of the park and the square.

The current proposal fails to provide all three of the public spaces, and compromises each with the encroachment of private uses to the point where the spaces are no longer public in nature:

- NW Master Plan Standard #2 define the maximum building envelope and Design Guideline 7B identifies fifteen required characteristics of a public square. The decision fails to respond to each of these requirements.
- The proposal fails to comply with Map 04-7 and Guideline 7.B.12 by placing **private development in designated public** park area, and **fails to provide any public benefit** to justify the proposed Amendment to do so.
- The proposal fails to comply with Community Design Guideline D1 and D3, Standards 7.C, 7.D.1, 10.A, 10.B and 10.C regarding the arrangement and character of the public square and the surrounding building's relationship to it, resulting in a space that is **more akin to a private courtyard than a public square**.
- The proposal fails to comply with Guidelines 7.C.1, 7.C.3, 7.C.4, 7.C.7, and 7.C.8 regarding arrangement and character of the NW Quimby Parcel, resulting in a space that functions entirely to provide **access to the proposed development's underground parking rather than the intended festival street**.

Modifications to the reduce the dimensions of the square as well as the ground plane connection, as required by Master Plan Standard 10.B and 10.C do not satisfy the ZC 33.825.040 standards.

Similarly, amending the master plan to allow for a reduction in the designated "Neighborhood Park" fails to further the objective of protecting open space and ultimately achieving a goal of 25% open space within the plan area. Although the plan acknowledges the existence of "market force"-driven development, the purpose of this plan is to hold-fast to certain objectives, including the amount and the quality of open space. These objectives cannot be compromised based on financial feasibility of the project. With this approval, the Design Commission sought to re-balance what it viewed as "desired densities with livability and positive urban qualities." Although NWDA favors increased density, the Council should keep in mind that this will largely be market rate housing. In sum, this is the applicant's desired density at the expense of public amenities, in direct contravention of the Plan's purpose and vision.

2. Additional Master Plan Requirements

2.1. Openness to the Sky and Sun Light

Master Plan Standard #10.B requires both enclosing the square on at least three sides, and a minimum horizontal dimension of 100'. This opens the Square to the sky and sufficient natural light to invite community interaction.

Furthermore, Standard #1 allows sunlight to reach the ground in the Square by limiting buildings to its south and west to four stories. The proposal seeks to exceeds that limit by ten feet, one additional story or 21 percent. See also NW Master Plan Design Guideline 3, 7.B.3,

2.2. Visual Connection to the Park

Standard #10.B further requires clearance of the ground plane connection between the square and park be 25'. The applicant proposes an average of 15' with a minimum clearance of 13'-9". NW Master Plan Design Guideline 7.B.2 imposes a similar 25' requirement.

Ideally, to optimize the asset of the park, the square should connect to the park between buildings. However, if they connect *through* a building, the opening must be wide and higher than one floor. This achieves a visual and spatial connection typical of other successful public squares.

2.3. Enclosed Gathering Space

Standard #10.A requires framing the Square by active buildings on at least three sides.

This provides a public gathering space that is safe, quiet and insulated from adjacent vehicular traffic and noise. It facilitates neighborhood gatherings and supports its social fabric. As designed, the square is framed by active buildings on just one side and is too small to invite public use.

2.4. Quimby Festival Street

Master Plan Guideline #7.C requires a multi-use street and open space that links the Square and park with the north and south. It should serve primarily for pedestrian and bicycle use. Its proposed use for private parking access diminishes its capacity to enhance the public realm. The decision fails to address these requirements.

Further, NW Quimby is intended for emergency and service access suitable for a dense urban neighborhood. Its use is also flexible, to accommodate farmers' markets, art walks or other programmed neighborhood events. These uses are prioritized over private vehicular traffic.

Finally, the Master Plan cites access to underground parking from NW Raleigh Street or NW 20th Street, not the Quimby open space parcel. For these reasons, this design fails to respond to Community Design Guideline E1 and E5, NW Master Plan Guideline 2.

2.5. Access, Integration of Design and Connections

NW Master Plan Guideline 7A requires integration between open spaces as well as the design of open spaces that are distinctive as well as accessible. Standard #10.A, Guideline 7.B.3 and 7D requires that the Square connect to nearby open spaces.

This Standard ensures that the square is easily recognized as a public space within the city's

network of open spaces. Because of its required level of enclosure, it must connect to the park and surrounding streets. The proposed design does not achieve this standard.

2.6. A Lively Public Realm

The Master Plan also requires signaling the Square's public nature with ground floor retail on NW 21st Avenue and in the buildings fronting the interior of the Square. Guideline 7.B.1, 7C, 7.D. This Standard requires committing 3/4 of Square frontage to lively commercial uses. This requirement specifically envisions retail sales and service, which generate more activity and interaction than other ground floor uses.

The proposed active use on the Square diminishes its potential as a gathering place for events and activities. It is more private courtyard than public square. Where modifications to some of these standards were requested, the decision fails to justify a modification as required by ZC 33.825.040. Further, it is not clear why a height adjustment is necessary to provide for ground floor retail uses and at the same time, a modification is also necessary to significantly reduce the amount of ground floor retail. Similarly, the decision concludes that the park space must be reduced to accommodate amenities such as a bike repair and pet washing station, relating to Design Standard 5, but this represents a false choice that is actually the result of forcing too many residential units into the development. The open space and the neighborhood facilities must be provided for the neighborhood facility purpose objective to be satisfied.

2.7. Urban Character

Section 4 of the Master Plan lays out the vision of the area's development. It begins with the return to the traditional 200ft by 200ft block grid. It defines where structures would be built, a circulation system for vehicles, pedestrians and bikes and very important to the livability of the neighborhood, the designation of open spaces.

The current proposal expands the footprint of private development outside the block grid, 15' to the east into the public park without justification, denigrating the urban character as envisioned by the Master Plan.

3. The Design Commission Should Have Required Refiling of the Application and Review Against the Standards in Place When the Substantially Revised Design was Filed

The original Block 290 development application was deemed complete on March 29, 2016. Finding little support for the original design, the applicant changed architect and returned with a new building design in March 2017. Rather than requiring submittal of a new application, coupled with a filing fee, the applicant has proceeded under the umbrella of the previous application. This approach not only violates ORS 227.178(5) and ZC 33.700.080(B), it sets a terrible public policy in that it fails to recover filing fees to cover the staff costs resulting from providing two reviews of two completely disparate proposals. Moreover, this approach frustrates the City's ability to require compliance with newly imposed regulations. For example, a developer could avoid the recently

required inclusionary zoning requirements by continually changing an application that predated their enactment.

**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 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 4th 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.