

## IMPACT STATEMENT

**Proposal:** The request is not for a legislative action, but instead is an appeal of a Type III Land Use Review decision (quasi-judicial action).

**Contact name:** Hillary Adam, Senior City Planner, Land Use Services

**Contact phone:** 503-823-3581

**Presenter name:** Hillary Adam

**Purpose of proposal and background information:**

This is a quasi-judicial action. Erica Ceder, DLR Group, on behalf of Kristin Wells (OMF) is requesting appeal of a Type III Land Use Review decision (quasi-judicial action). An additional appeal of the decision is expected from a member of the public. Title 33, Zoning Code Section 33.730.030.F provides that Type III Land Use Review decisions may be appealed to City Council.

**Financial and budgetary impacts:**

This is not a legislative action, but rather an appeal of a Type III quasi-judicial land use review. The decision will not solely or substantially impact City revenues; however, overturning the Historic Landmarks Commission's decision in its entirety and/or Condition G could result in additional unforeseen costs for the City with regard to additional design fees and land use review fees.

Generally, Land Use Reviews are fee supported. However, no appeal fees are charged to Recognized Organizations per Portland Zoning Code Chapter 33.910. In this case, the City has been billed \$5,000 for the cost of the appeal.

**Community impacts and community involvement:**

The notification procedures for this Type III land use application followed the public involvement requirements contained within the Portland Zoning Code, as reviewed and adopted by the Portland City Council.

For Type III Land Use Reviews, the Zoning Code requires public notice be mailed to recognized neighborhood and business associations that are within 1,000 feet of the site. For this site, the Portland Downtown neighborhood association, Neighbors West/Northwest neighborhood coalition, the Downtown Retail Council, and Pioneer Courthouse Square all received notice. In addition, all property owners within the 400 feet of the site are also mailed notice of the public hearing and the site is posted with notice boards. City Bureaus, Tri-Met, and the State Historic Preservation Office are also mailed notice. Interested persons were encouraged to write and/or testify at the first public hearing conducted before the Historic Landmarks Commission.

A written Notice of Proposal was sent to the above-referenced entities notifying them of the proposal and seeking their comments. Comments from the public were received by city staff or the Historic Landmarks Commission during the review process.

The outcome of the appeal will not be known until the City Council makes its final decision. Once the City Council has made its decision on this land use appeal, there is no more opportunity for public involvement at the City level, per Zoning Code Section 33.730.030.H.9. However, the City Council's decision on this quasi-judicial land use review may be appealed to the Oregon Land Use Board of Appeals (LUBA).

### **Budgetary Impact Worksheet**

**Does this action change appropriations?**

☐ **YES:** Please complete the information below.

☒ **NO:** Skip this section

<b>Fund</b>	<b>Fund Center</b>	<b>Commitment Item</b>	<b>Functional Area</b>	<b>Funded Program</b>	<b>Grant</b>	<b>Sponsored Program</b>	<b>Amount</b>

## **MOTIONS**

Appeal of Erica Ceder, DLR Group, and Appeal of Peter Meijer, Peter Meijer Architect PC, against the Historic Landmarks Commission's decision of approval with conditions for Historic Resource Review of exterior alterations and rehabilitation of The Portland Building in the Central City, at 1120 SW 5<sup>th</sup> Ave (Hearing; LU 17-153413 HRM AD)

August 24, 2017

**Motion to tentatively grant the Cedar appeal, deny the Meijer appeal and uphold the Historic Landmarks Commission's decision with removal of condition G:**

Moved by Saltzman and seconded by Eudaly.

Commissioners voted as follows:

YEAS: Saltzman, Eudaly, Fritz, Wheeler.

ABSENT: Fish

Disposition:

**AUG 24 2017**

**TENTATIVELY GRANT THE CEDER APPEAL AND DENY THE MEIJER APPEAL;  
PREPARE FINDINGS FOR SEPTEMBER 13, 2017 AT 11:15 AM TIME CERTAIN.**

September 13, 2017

**Motion to grant the Cedar appeal, deny the Meijer appeal and uphold the Historic Landmarks Commission's decision with removal of condition G:** Moved by Mayor Wheeler and seconded by Fritz.

Commissioners voted as follows:

YEAS: Saltzman, Eudaly, Fritz, Wheeler.

RECUSED: Fish

Disposition:

**SEP 13 2017**

**GRANT THE CEDER APPEAL AND DENY THE MEIJER APPEAL;  
ADOPT FINDINGS**

## **Chapter 33.846, Historic Reviews**

### **Purpose of Historic Resource Review**

Historic Resource Review ensures the conservation and enhancement of the special characteristics of historic resources.

From  
Hillary Adam  
8/24/17

### **Historic Resource Review Approval Criteria**

Requests for Historic Resource Review will be approved if the review body finds the applicant has shown that all of the approval criteria have been met.

**Findings:** The site is a designated Historic Landmark. Therefore the proposal requires Historic Resource Review approval. The relevant approval criteria are listed in 33.846.060 G. 1.-10. In addition, because the site is located within the Central City, the relevant approval criteria are the Central City Fundamental Design Guidelines.

### **G. Other Approval Criteria:**

1. **Historic character.** The historic character of the property will be retained and preserved. Removal of historic materials or alteration of features and spaces that contribute to the property's historic significance will be avoided.
2. **Record of its time.** The historic resource will remain a physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings will be avoided.
3. **Historic changes.** Most properties change over time. Those changes that have acquired historic significance will be preserved.
4. **Historic features.** Generally, deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement, the new feature will match the old in design, color, texture, and other visual qualities and, where practical, in materials. Replacement of missing features must be substantiated by documentary, physical, or pictorial evidence.
5. **Historic materials.** Historic materials will be protected. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials will not be used.
6. **Archaeological resources.** Significant archaeological resources affected by a proposal will be protected and preserved to the extent practical. When such resources are disturbed, mitigation measures will be undertaken.
7. **Differentiate new from old.** New additions, exterior alterations, or related new construction will not destroy historic materials that characterize a property. New work will be differentiated from the old.
8. **Architectural compatibility.** New additions, exterior alterations, or related new construction will be compatible with the resource's massing, size, scale, and architectural features. When retrofitting buildings or sites to improve accessibility for persons with disabilities, design solutions will not compromise the architectural integrity of the historic resource.
9. **Preserve the form and integrity of historic resources.** New additions and adjacent or related new construction will be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic resource and its environment would be unimpaired.
10. **Hierarchy of compatibility.** Exterior alterations and additions will be designed to be compatible primarily with the original resource, secondarily with adjacent properties, and finally, if located within a Historic or Conservation District, with the rest of the district. Where practical, compatibility will be pursued on all three levels.



## **Central City Fundamental Design Guidelines**

These guidelines provide the constitutional framework for all design review areas in the Central City.

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

### **Central City Plan Design Goals**

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

1. Encourage urban design excellence in the Central City;
  2. Integrate urban design and preservation of our heritage into the development process;
  3. Enhance the character of the Central City's districts;
  4. Promote the development of diversity and areas of special character within the Central City;
  5. Establish an urban design relationship between the Central City's districts and the Central City as a whole;
  6. Provide for a pleasant, rich and diverse pedestrian experience for pedestrians;
  7. Provide for the humanization of the Central City through promotion of the arts;
  8. Assist in creating a 24-hour Central City which is safe, humane and prosperous;
  9. Ensure that new development is at a human scale and that it relates to the scale and desired character of its setting and the Central City as a whole.
- 
- A1. Integrate the River.** Orient architectural and landscape elements including, but not limited to, lobbies, entries, balconies, terraces, and outdoor areas to the Willamette River and greenway. Develop accessways for pedestrians that provide connections to the Willamette River and greenway.
  - A2. Emphasize Portland Themes.** When provided, integrate Portland-related themes with the development's overall design concept.
  - A3. Respect the Portland Block Structures.** Maintain and extend the traditional 200-foot block pattern to preserve the Central City's ratio of open space to built space. Where superblock exist, locate public and/or private rights-of-way in a manner that reflects the 200-foot block pattern, and include landscaping and seating to enhance the pedestrian environment.
  - A4. Use Unifying Elements.** Integrate unifying elements and/or develop new features that help unify and connect individual buildings and different areas.
  - A5. Enhance, Embellish, and Identify Areas.** Enhance an area by reflecting the local character within the right-of-way. Embellish an area by integrating elements in new development that build on the area's character. Identify an area's special features or qualities by integrating them into new development.
  - A6. Reuse/Rehabilitate/Restore Buildings.** Where practical, reuse, rehabilitate, and restore buildings and/or building elements.
  - A7. Establish and Maintain a Sense of Urban Enclosure.** Define public rights-of-way by creating and maintaining a sense of urban enclosure.
  - A8. Contribute to a Vibrant Streetscape.** Integrate building setbacks with adjacent sidewalks to increase the space for potential public use. Develop visual and physical connections into buildings' active interior spaces from adjacent sidewalks. Use architectural elements such as atriums, grand entries and large ground-level windows to reveal important interior spaces and activities.

- A9. Strengthen Gateways.** Develop and/or strengthen gateway locations.
- B1. Reinforce and Enhance the Pedestrian System.** Maintain a convenient access route for pedestrian travel where a public right-of-way exists or has existed. Develop and define the different zones of a sidewalk: building frontage zone, street furniture zone, movement zone, and the curb. Develop pedestrian access routes to supplement the public right-of-way system through superblocks or other large blocks.
- B2. Protect the Pedestrian.** Protect the pedestrian environment from vehicular movement. Develop integrated identification, sign, and sidewalk-oriented night-lighting systems that offer safety, interest, and diversity to the pedestrian. Incorporate building equipment, mechanical exhaust routing systems, and/or service areas in a manner that does not detract from the pedestrian environment.
- B3. Bridge Pedestrian Obstacles.** Bridge across barriers and obstacles to pedestrian movement by connecting the pedestrian system with innovative, well-marked crossings and consistent sidewalk designs.
- B4. Provide Stopping and Viewing Places.** Provide safe, comfortable places where people can stop, view, socialize and rest. Ensure that these places do not conflict with other sidewalk uses.
- B5. Make Plazas, Parks and Open Space Successful.** Orient building elements such as main entries, lobbies, windows, and balconies to face public parks, plazas, and open spaces. Where provided, integrate water features and/or public art to enhance the public open space. Develop locally oriented pocket parks that incorporate amenities for nearby patrons.
- B6. Develop Weather Protection.** Develop integrated weather protection systems at the sidewalk-level of buildings to mitigate the effects of rain, wind, glare, shadow, reflection, and sunlight on the pedestrian environment.
- B7. Integrate Barrier-Free Design.** Integrate access systems for all people with the building's overall design concept.
- C1. Enhance View Opportunities.** Orient windows, entrances, balconies and other building elements to surrounding points of interest and activity. Size and place new buildings to protect existing views and view corridors. Develop building façades that create visual connections to adjacent public spaces.
- C2. Promote Quality and Permanence in Development.** Use design principles and building materials that promote quality and permanence.
- C3. Respect Architectural Integrity.** Respect the original character of an existing building when modifying its exterior. Develop vertical and horizontal additions that are compatible with the existing building, to enhance the overall proposal's architectural integrity.
- C4. Complement the Context of Existing Buildings.** Complement the context of existing buildings by using and adding to the local design vocabulary.
- C5. Design for Coherency.** Integrate the different building and design elements including, but not limited to, construction materials, roofs, entrances, as well as window, door, sign, and lighting systems, to achieve a coherent composition.
- C6. Develop Transitions between Buildings and Public Spaces.** Develop transitions between private development and public open space. Use site design features such as movement zones, landscape element, gathering places, and seating opportunities to develop transition areas where private development directly abuts a dedicated public open space.



- C7. Design Corners that Build Active Intersections.** Use design elements including, but not limited to, varying building heights, changes in façade plane, large windows, awnings, canopies, marquees, signs and pedestrian entrances to highlight building corners. Locate flexible sidewalk-level retail opportunities at building corners. Locate stairs, elevators, and other upper floor building access points toward the middle of the block.
- C8. Differentiate the Sidewalk-Level of Buildings.** Differentiate the sidewalk-level of the building from the middle and top by using elements including, but not limited to, different exterior materials, awnings, signs, and large windows.
- C9. Develop Flexible Sidewalk-Level Spaces.** Develop flexible spaces at the sidewalk-level of buildings to accommodate a variety of active uses.
- C10. Integrate Encroachments.** Size and place encroachments in the public right-of-way to visually and physically enhance the pedestrian environment. Locate permitted skybridges toward the middle of the block, and where they will be physically unobtrusive. Design skybridges to be visually level and transparent.
- C11. Integrate Roofs and Use Rooftops.** Integrate roof function, shape, surface materials, and colors with the building's overall design concept. Size and place rooftop mechanical equipment, penthouses, other components, and related screening elements to enhance views of the Central City's skyline, as well as views from other buildings or vantage points. Develop rooftop terraces, gardens, and associated landscaped areas to be effective stormwater management tools.
- C12. Integrate Exterior Lighting.** Integrate exterior lighting and its staging or structural components with the building's overall design concept. Use exterior lighting to highlight the building's architecture, being sensitive to its impacts on the skyline at night.
- C13. Integrate Signs.** Integrate signs and their associated structural components with the building's overall design concept. Size, place, design, and light signs to not dominate the skyline. Signs should have only a minimal presence in the Portland skyline.
- D1. Park Blocks.** Orient building entrances, lobbies, balconies, terraces, windows, and active use areas to the Park Blocks. In the South Park Blocks, strengthen the area's emphasis on history, education, and the arts by integrating special building elements, such as water features or public art. In the Midtown Park Blocks, strengthen the connection between the North and South Park Blocks by using a related system of right-of-way elements, materials, and patterns. In the North Park Blocks, strengthen the area's role as a binding element between New China/Japantown and the Pearl District.
- D2. South Waterfront Area.** Develop a pedestrian circulation system that includes good connections to adjacent parts of the city and facilitates movement within and through the area. Size and place development to create a diverse mixture of active areas. Graduate building heights from the western boundary down to the waterfront. Strengthen connections to North Macadam by utilizing a related system of right-of-way elements, materials, and patterns.
- D3. Broadway Unique Sign District.** Provide opportunities for the development of large, vertically oriented, bright, and flamboyant signs that add to the unique character of this Broadway environment. Size and place signs and their structural support systems so that significant architectural or historical features of the building are not concealed or disfigured. Ensure that all signs receive proper maintenance.
- D4. New China/Japantown Unique Sign District.** Provide opportunities for the development of suitably ornate signs, using motifs, symbols, bright colors, and celebrative forms that add to the atmosphere and character of New China/Japantown. Size and place signs and their structural support systems so that significant architectural or historical features of the building are not concealed or disfigured. Ensure that all signs receive proper maintenance.

### **33.846.070 Modifications Considered During Historic Resource Review**

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the historic resource review process. These modifications are done as part of historic resource review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through historic resource review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

- A. **Better meets historic resource review approval criteria.** The resulting development will better meet the approval criteria for historic resource review than would a design that meets the standard being modified; and
  - B. **Purpose of the standard.**
    - 1. The resulting development will meet the purpose of the standard being modified; or
    - 2. The preservation of the character of the historic resource is more important than meeting the purpose of the standard for which a modification has been requested.
- 

### **33.805.040 [Adjustment] Approval Criteria**

The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met. Adjustments to the ground floor window requirements of this Title must also meet the additional requirements stated in the ground floor window sections in the base zones.

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
- B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and
- C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and
- D. City-designated scenic resources and historic resources are preserved; and
- E. Any impacts resulting from the adjustment are mitigated to the extent practical; and
- F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable; or
- G. Application of the regulation in question would preclude all reasonable economic use of the site; and
- H. Granting the adjustment is the minimum necessary to allow the use of the site; and
- I. Any impacts resulting from the adjustment are mitigated to the extent practical.





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

Chloe Eudaly, Commissioner  
Rebecca Esau, Interim Director  
Phone: (503) 823-7300  
Fax: (503) 823-6983  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**MEMORANDUM**

August 24, 2017

To: Mayor Ted Wheeler  
Commissioner Chloe Eudaly  
Commissioner Nick Fish  
Commissioner Amanda Fritz  
Commissioner Dan Saltzman

From: Rebecca Esau, Interim Director  
Bureau of Development Services

*E.H. for R.E.*

Subject: City Council hearing on LU 17-153413 HRMAD, The Portland Building

The purpose of this memorandum is to provide a summary and brief description of the land use review decision that has been appealed and will be presented to you in public hearing on August 24, 2017 at 3:00, time certain.

**Site Address:** 1120 SW 5<sup>th</sup> Avenue (The Portland Building)

**BDS Representative:** Hillary Adam, Senior City Planner  
503-823-3581, [hillary.adam@portlandoregon.gov](mailto:hillary.adam@portlandoregon.gov)

**1. Land Use Reviews Requested:** Type III Historic Resource Review (HR) with Modification (M) and Adjustment (AD) requests.

**2. Key Elements of Proposal:**

Applicant: Erica Ceder, DLR Group  
Owner: City of Portland  
Site Location: 1120 SW 5<sup>th</sup> Avenue  
Site Size: 40,000 SF, developed with the Portland Building

Proposal: The proposal is for exterior alterations and rehabilitation of the Portland Building in the Central City. Aspects of the proposal include the following:

- Installation of a rainscreen system on the exterior of the building to be composed of aluminum panels at the upper levels (off-white, red, and blue penthouse) and ceramic tile at the lower (teal) levels, to be set proud of the underlying concrete structure by up to 11.5 inches at the upper levels and 7 inches at the lower levels. The new rainscreen is designed to match the

- patterning of the existing, though the ground level ceramic tiles are proposed at twice the current dimension (from 9.5" x 9.5" to 19" x 19")
- and the terracotta-colored tiles area are also proposed to be increased (from 9.5" x 9.5" to 15.5" x 15.5").
- Replacement of existing formed "column capitals" and decorative "medallion and garland" elements with new aluminum panels designed to match the existing.
- Replacement of all upper level windows and introduction of clear glazing where dark tinted glazing currently exists. Areas of mirrored glazing area will remain mirrored, though new glazing will be installed.
- Replacement of 2<sup>nd</sup> floor louvers with new windows. Replacement of ground floor storefront systems with new butt-glazed floor-to-ceiling storefront systems.
- Enclosure of two bays of floor area each at the north and south portions of the ground level loggia. The new infilled areas are proposed to be clad with the proposed teal replacement tile, windows to match adjacent windows, and storefront system to match adjacent storefront system.
- Removal of two existing rooftop mechanical units and installation of two new air-handling units on the west side of the roof and six new cooling towers on the east side of the roof. Because the new cooling towers on the east side of the roof exceed the maximum height allowance for that side of the building, the applicant is utilizing the performance standard identified in 33.510.205.C in order to exceed the height limit on the east.
- Removal of the vehicle access at the ground level of the east façade and infill of this area with new glazing and expansion of that glazing upward to the second floor. Relocation of entry and egress doors on the east façade and the application of sight-obscuring film on the ground level east façade windows and doors.

#### **Modifications / Adjustments.**

Two (2) Modifications to Portland Zoning Code standards (Title 33) are requested:

1. **Ground Floor Windows in the CX Zone (33.130.230)** – to reduce the amount of ground floor windows on the north façade to 37% (from 50%) of the wall length and, on the east façade, to 0% (from 50%) of the wall length and to 0% (from 25%) of the wall area.
2. **Ground Floor Active Use (33.510.225)** – to reduce the depth of the ground floor active uses (at the loggia) from the required 25' depth to approximately 16' to 20'.

One (1) Adjustment to Portland Zoning Code standards (Title 33) is requested:

1. **Quantity of Loading Spaces (33.266.310.C.)** – to reduce the number of required loading spaces to zero (0) by removing the existing on-site basement level loading space.

Historic Resource Review is required because the project proposes non-exempt exterior alterations to a Historic Landmark, per section 33.445.140 of the Portland Zoning Code.

3. **Final Decision:** The Historic Landmarks Commission found that, with the conditions of approval, that all applicable approval criteria were met; therefore, they approved the proposal, with conditions.
4. **Alternatives Facing Council:**
  - Deny the appeal, and uphold the Historic Landmarks Commission's decision to approve the proposal with conditions.
  - Uphold Appellant #1's appeal and strike condition G, thereby modifying the Historic Landmarks Commission's decision of approval with conditions.
  - Uphold Appellant #2's (anticipated) appeal, thereby overturning the decision of the Historic Landmarks Commission to approve the proposal with conditions.