



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

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Rebecca Esau, Director  
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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

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

**CASE FILE:** LU 16-278621 DZM GW (Fremont Apartments)  
**WHEN:** February 21, 2018, 2:00 pm  
**WHERE:** COUNCIL CHAMBERS, 1221 SW FOURTH AVENUE

**Date:** January 30, 2018  
**To:** Interested Person  
**From:** Benjamin Nielsen, Land Use Services, 503-823-7812

This notice has been revised from the original notice, which was mailed on January 22, 2018, to include contact information for the appellant of this case. The hearing date and time remain unchanged.

The Review Body decision of **approval** has been appealed by **Jeffrey L. Kleinman on behalf of the Pearl District Neighborhood Association**.

A public hearing will be held to consider an appeal of the Portland Design Commission's decision to approve a 17-story residential mixed-use building in the Central City – River District Subdistrict – North Pearl Subarea at 1650 NW Naito Pkwy. The Design Commission decision of approval with conditions has been appealed by the Pearl District Neighborhood Association. At the hearing, City Council will consider the appeal. You are invited to testify at the hearing.

This will be an evidentiary/de novo hearing, one in which new may 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:** Pearl District Neighborhood Association  
c/o Jeffrey L. Kleinman, Attorney at Law  
1207 SW 6<sup>th</sup> Ave  
Portland, OR 97204

**Applicants/  
Representative:**

Tim Wybenga, TVA Architects  
503-220-0668  
[Timw@tvaarchitects.com](mailto:Timw@tvaarchitects.com)  
920 SW 6th Ave #1500  
Portland, OR 97204

Bonnie Chiu, TVA Architects  
971-998-9321  
[Bonniec@tvaarchitects.com](mailto:Bonniec@tvaarchitects.com)

**Owner:** Patrick Gilligan, Lincoln Property Company LLC  
55 San Francisco St #450  
San Francisco, CA94133  
415-981-7878 | [Pgilligan@Lpc.Com](mailto:Pgilligan@Lpc.Com)

**Site Address:** 1650 NW NAITO PKWY

**Legal Description:** LOT 1-10 TL 400, WATSONS ADD

**Tax Account No.:** R883803450

**State ID No.:** 1N1E28DD 00400

**Quarter Section:** 2828,2829

**Neighborhood:** Pearl District, contact [planning@pearldistrict.org](mailto:planning@pearldistrict.org).

**Business District:** Pearl District Business Association, contact Carolyn Ciolkosz at 503-227-8519.

**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

**Plan District:** Central City - River District – North Pearl Subarea

**Zoning:** EXdg – Central Employment with Design and Greenway (River General) Overlays

**Case Type:** DZM GW – Design Review with Modifications and concurrent Greenway Review

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

**Proposal:**

The applicants request **Design Review** and a **concurrent Greenway Review** for a proposed 17-story, approximately 305,538 square foot mixed-use building with a retail/restaurant space on the ground floor and residential on the upper stories in the North Pearl Subarea of the River District Subdistrict of the Central City Plan District. The site is adjacent to the Willamette River and is currently occupied by a surface parking lot adjacent to a three-story office building. A new plaza and open space area is proposed to be created between the new residential tower and the existing office building at the northwest edge of the site. This plaza and open space area will allow for public access to the Willamette Greenway trail from NW Naito Pkwy.

The proposed building includes several massing components: along the Willamette Greenway trail, the building is massed at five stories with a height of approximately 54'-0". A roof deck will sit atop this massing and face the river. The five-story massing continues along the new plaza and open space area at the northwest side of the site and transitions into the 17-story tower as it approaches NW Naito Pkwy. This tower component, with a height of 175'-0" to the top of the parapet and 185'-0" to the top of a mechanical screen (please note, heights shown in the drawing package submitted to the Design Commission have since been revised slightly downward based on drawings submitted in Exhibit A-13, which will be provided to the Design Commission at the hearing), forms an "L" with its legs running along the new plaza and NW Naito Pkwy. At the southern corner of the site, the tower steps down to an 8-story mass, with a height of approximately 86'-0". At the eastern corner of the site and along the southeast property line, the building is massed as a single-story with a roof deck and eco-roof on top with a height of approximately 15'-0". Structured parking is proposed for the site on both the ground floor (9 spaces) and underground (140 spaces).

The proposed total floor area will exceed the base zone Floor Area Ratio (FAR) of 2:1 for this 72,080 SF site; with a proposed floor area of 305,538 SF, the proposed FAR would be approximately 4.24:1. The applicants propose to earn bonus FAR through a combination of the residential bonus option, locker room bonus option, and eco-roof bonus option.

- The residential bonus option in zoning code section 33.510.210.C.1.a.(2) allows for 1 additional square foot of floor area for each square foot of floor area developed and committed as housing, for a total possible bonus FAR of up to 2:1. The full bonus will be earned, as more than 144,160 SF of residential floor area is proposed.

- The locker room bonus option in zoning code section 33.510.210.C.8 allows for an additional 40 square feet of floor area for each square foot of floor area developed and committed to locker room facilities to encourage biking. The applicants propose to earn this bonus by providing a 380 SF locker room area on the ground floor of the building, connected to the long-term bicycle parking room. The applicants propose to provide 481 long-term bicycle parking spaces, with 206 in the bicycle parking room and an additional 275 in residential units.
- The eco-roof bonus option in zoning code section 33.510.210.C.10 allows for an additional two square feet of floor area for each square foot of eco-roof where the total area of eco-roof covers at least 30%, but less than 60%, of the building's footprint. The applicants propose to earn this bonus by providing a total of 18,217 SF of eco-roof out of a total of 56,231 SF of roof area (32.4% of total roof area).

Proposed cladding materials include clear glass, spandrel glass, flat metal panel, ribbed metal panel, fiber cement panel, brick, and concrete.

Seven (7) **Modifications** to zoning code development standards are requested:

- 1) **33.140.210.B.2 – Height**: To allow rooftop mechanical equipment and screening to extend above the height limit of 175' (per the North Pearl Subarea height opportunity area standards), to be located closer than 15' to the roof edges on street-facing facades and to cover more than 10% of the roof area. The proposed mechanical screen will enclose 73% of the tower roof area and will extend up to the parapet of the tower in some locations.
- 2) **33.266.220.C.3.b – Standards for all bicycle parking, Bicycle racks**: To allow vertically-hung long-term bicycle racks to be spaced at 1'-4" x 6' rather than the required 2' x 6'.
- 3) **33.510.205.H.2.c – North Pearl Subarea height opportunity area**:
  - To allow the height of the building to be 175'-0", exceeding the maximum allowed base height of 100'-0"; and,
  - To allow the length of facades above 100' to exceed 120' in length. Proposed façade length on the east and west facades of the building is 125'-2". Proposed façade length on the north and south facades of the building is 142'-8".
- 4) **33.510.251.C.3 – Required open area development standards, Shadow standard**: To allow more than 50% of the plaza area on the north side of the site to be covered by shadows at noon on April 21<sup>st</sup> of any year, not including shadows from trees. Approximately 84% of the plaza will be in shadow at noon.
- 5) **33.510.251.D.3.b & c – North Pearl Subarea waterfront development standards**:
  - b. **Setbacks for all development from the Willamette River**: To allow portions of the building over 35' in height to extend into the setback area, which requires the building to be set back from the Greenway setback line by 1' for every 1' of height above 35'. (These portions of the building are not yet clearly identified on the plan drawings.)
  - c. **Maximum building dimension**: To allow the building dimension to be 230'-9" in the east-west direction, i.e., perpendicular to the river, rather than the maximum allowed 200' dimension.
- 6) **33.140.240.B.4 – Pedestrian Standards, EG1 and EX zones**: To allow landscaping between the sidewalk and the building along NW Naito Parkway to be planted with groundcover and other low plants, which is less than the required L1 landscaping standard that requires trees to be planted in addition to groundcover.
- 7) **33.266.130.G.2.c – [Parking Area] Setbacks**: To allow required landscaping between the south lot line and the driveway leading from NW Naito Pkwy to the structured parking garage to be screened with 3-foot tall evergreen shrubs for a portion of its length and with a 3-foot tall concrete wall for the rest of its length instead of the required L2 landscaping (which consists of trees, shrubs, and ground cover). The proposed planted area will be 2 feet in width instead of the required 5-foot width.

In addition to the reviews described above, concurrent, but separate, Property Line Adjustment (PR 17-113983) and Lot Consolidation (LU 17-169109 LC) procedures are currently under review to separate the proposed development site from the rest of the larger parcel.

A Type III Design Review is required for proposed new development valued over \$2,223,650 in the “d” Design Overlay Zone of the River District Subdistrict of the Central City Plan District and for requested Modifications to zoning code development standards. Greenway Review is required for proposed new development in the “g” Greenway – River General Overlay Zone.

**Approval Criteria:**

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

- Central City Fundamental Design Guidelines
- River District Design Guidelines
- Willamette Greenway Design Guidelines
- 33.820.040, Modifications That Will Better Meet Design Review Requirements
- 33.440.350, Approval Criteria

**REVIEW BODY DECISION**

It is the decision of the Design Commission to approve Design Review and concurrent Greenway Review for the proposed 17-story, approximately 305,538 square foot mixed-use building with a retail/restaurant space on the ground floor and residential on the upper stories in the North Pearl Subarea of the River District Subdistrict of the Central City Plan District;

Approval of the following Modification requests:

- 1) 33.140.210.B.2 – Height: To allow rooftop mechanical equipment and screening to extend above the height limit of 175’ (per the North Pearl Subarea height opportunity area standards), to be located closer than 15’ to the roof edges on street-facing facades and to cover more than 10% of the roof area. The proposed mechanical screen will enclose 73% of the tower roof area and will extend up to the parapet of the tower in some locations.
- 2) 33.266.220.C.3.b – Standards for all bicycle parking, Bicycle racks: To allow vertically-hung long-term bicycle racks to be spaced at 1’-4” x 6’ rather than the required 2’ x 6’.
- 3) 33.510.205.H.2.c – North Pearl Subarea height opportunity area:
  - To allow the height of the building to be 175’-0”, exceeding the maximum allowed base height of 100’-0”; and,
  - To allow the length of facades above 100’ to exceed 120’ in length. Proposed façade length on the east and west facades of the building is 125’-2”. Proposed façade length on the north and south facades of the building is 142’-8”.
- 4) 33.510.251.C.3 – Required open area development standards, Shadow standard: To allow more than 50% of the plaza area on the north side of the site to be covered by shadows at noon on April 21<sup>st</sup> of any year, not including shadows from trees. Approximately 84% of the plaza will be in shadow at noon.
- 5) 33.510.251.D.3.b & c – North Pearl Subarea waterfront development standards:
  - d. Setbacks for all development from the Willamette River: To allow portions of the building over 35’ in height to extend into the setback area, which requires the building to be set back from the Greenway setback line by 1’ for every 1’ of height above 35’. (These portions of the building are not yet clearly identified on the plan drawings.)
  - e. Maximum building dimension: To allow the building dimension to be 230’-9” in the east-west direction, i.e., perpendicular to the river, rather than the maximum allowed 200’ dimension.

- 6) 33.140.240.B.4 – Pedestrian Standards, EG1 and EX zones: To allow landscaping between the sidewalk and the building along NW Naito Parkway to be planted with groundcover and other low plants, which is less than the required L1 landscaping standard that requires trees to be planted in addition to groundcover.
- 7) 33.266.130.G.2.c – [Parking Area] Setbacks: To allow required landscaping between the south lot line and the driveway leading from NW Naito Pkwy to the structured parking garage to be screened with 3-foot tall evergreen shrubs for a portion of its length and with a 3-foot tall concrete wall for the rest of its length instead of the required L2 landscaping (which consists of trees, shrubs, and ground cover). The proposed planted area will be 2 feet in width instead of the required 5-foot width.

Approvals per Exhibits C.1-C.107, signed, stamped, and dated December 22, 2017, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through K) 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 16-278621 DZM GW". All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. No field changes allowed.
- D. The glazing at the ground floor of the west and south elevations shall be clear glass rather than fritted glazing.
- E. The storefront glazing at the FCC room and fire riser room on the north elevation shall be composed of translucent glass.
- F. Exposed metal panel attachments shall be finished to be the same color as the metal panel.
- G. Exposed fasteners used with the fiber cement panel system shall be prefinished by the manufacturer to match the color of the panels, and the concealed fasteners used with the fiber cement panel system shall be attached entirely from the back side of the panel via a clip or similar system.
- H. The proposed wall-mounted bike racks shall be staggered vertically by a minimum of 6".
- I. The proposed retail/restaurant space at the northeast corner of the ground floor of the building shall remain in a Retail Sales & Services use for the life of the building.
- J. Signage denoting public access to the Greenway trail shall be placed at both ends of the pedestrianway, and the signs shall meet the Directional Signs standard in Portland sign code section 32.32.030.H.
- K. At least one long-term bike parking space shall be shown in each dwelling unit, or otherwise accounted for within the building at the time of permit to earn the requested locker room bonus.

### **APPEAL**

The Design Commission's decision of an approval with conditions has been appealed by Jeffrey L. Kleinman, Attorney at Law on behalf of the Pearl District Neighborhood Association. According to the appellants' statement, the appeal of the Design Commission decision is based on arguments that:

*The proposal violates provisions of the zoning code and relevant design guidelines and also includes several modifications to development standards that were not required to be approved. The proposal would create a precedent for similar development along the Greenway which visually and physically cuts the North Pearl District off from the Willamette River.*

*The proposal does not meet the following guidelines from the Central City Fundamental Design Guidelines and the River District Design Guidelines:*

- *A2 – Emphasize Portland Themes. The building's massing and height does not properly take the view of the Fremont Bridge into account. The view would not be impaired if the building met the 100-foot base height limit.*
- *A3-1 – Provide Convenient Pedestrian Linkages. The proposal does not respect the typical 200-foot block pattern with its placement at the south property line.*
- *A4 – Use Unifying Elements. The building creates a visual mishmash.*
- *A5-1-1 – Reinforce the Identity of the Pearl District Neighborhood. The proposal creates its own neighborhood along the river almost entirely for the benefit of high-rent tenants.*
- *A5-1-5 – Reinforce the Identity of the Waterfront Area – The proposal does not integrate an active mix of uses along the waterfront or make development open and accessible in order to maintain the publicness of the Greenway; it instead turns the riverfront into a private benefit and amenity.*
- *A5-3 – Incorporate Water Features. The proposal does not incorporate water features which enhance the quality, character, and image of the River District. Proposed stormwater planters are not a legitimate water feature and do not form the focal point for integrated open spaces.*
- *A5-4 – Integrate Works of Art. The proposed benches do not comprise works of art.*
- *B5 – Make Plazas, Parks, and Open Space Successful. The proposed plaza/ open space has minimal engagement with the existing 3-story office building to the north.*
- *C4 – Complement the Context of Existing Buildings. The proposal fails to use and add to the local design vocabulary with its gated, walled stair entrance to the second-floor roof terrace and lack of visual connection to the Greenway trail.*
- *C5 – Design for Coherency. The proposal's unharmonious mix of design features and wall-like cutting off of the riverfront and Greenway are not designed for coherency.*

*The following modifications do not merit approval, as they do not better meet applicable design standards, are inconsistent with the purpose of the standards in question, and should have instead been reviewed through the more formal adjustment process:*

- *Modification #1 – 33.140.210.B.2, Height. Allowing the proposed building and its mechanical equipment screen to exceed the 100-foot base height limit or the 175-foot North Pearl bonus height limit does not better meet the applicable design guidelines and is inconsistent with the purpose of the standard.*
- *Modification #2 – 33.266.220.C.3.b, Standards for all bicycle parking, Bicycle racks. This modification obviates the need for the locker room FAR bonus and bicycle parking area.*
- *Modification #3 – 33.510.205.H.2.c, North Pearl Subarea height opportunity area. The modifications to this standard are substantial and need not have been considered by the Design Commission or could have been denied. The goals of the North Pearl Plan are directly relevant to the review of this modification. The additional height will not create and support a range of community amenities; it will not create a visually permeable skyline providing visual access to locations beyond the subarea; it will not result in a dynamic and varied skyline or urban form contributing to the health, vibrancy, or livability*

*of urban living; it will not shape building massing allowing light and air to penetrate the street level, enhance pedestrian scale, or create a pleasant, versatile, and active public realm; it will not provide a range of building types but will create a visual mess.*

*The proposal will not comply with the purpose statement of the standard: it will not increase sunlight along the Greenway and within public and private open space areas along the waterfront; it will not create an active urban waterfront with a vibrant public realm; it will not result in the creation of well-designed public and private open space amenities; it will not facilitate visual and physical access to and along the riverfront for all members of the public; it will not create expanded opportunities for views of the river from Naito Parkway, landward portions of the subarea, and locations west of the subdistrict; and it will significantly affect views or diminish the aesthetic qualities of the Fremont Bridge on the skyline.*

- *Modification #4 – 33.510.251.C.3, Required open area development standards, Shadow standard. This modification request does not better meet the applicable design guidelines, nor does it meet the purpose of the standard.*
- *Modification #5 – 33.510.251.D.3.b & c, North Pearl Subarea waterfront development standards. The proposal will not better meet design guidelines or be consistent with the purpose of the standard. With the accumulated other modifications, the proposal is already oppressive with respect to the Greenway, and locating the only open area on one side of the property will not allow for the requisite views and physical connections to the river.*
- *Modification #7 – 33.266.130.G.2.c, [Parking area] setbacks. The proposal violates the purpose of creating an environment inviting to pedestrians and does not better meet the design guidelines.*

*The proposal does not meet the following guidelines from the Willamette Greenway Design Guidelines:*

- *Issue A, Relationship of Structures to the Greenway Setback Area, Guideline 1, Structure Design. The structure does not complement or enhance the Greenway Setback Area, but rather intrudes upon it.*
- *Issue A, Guideline 2, Structure Alignment. The proposal fails to follow the Central City's typical 200-foot grid.*
- *Issue B, Public Access, Guideline 1, Public Access Opportunities. The proposal includes only one access point to the river and Greenway.*

*There are also problems related to zoning code interpretations concerning allowable floor area:*

- *The proposal incorrectly states a site area of 72,080 square feet upon which the proposal's floor area ratio (FAR) and bonus floor area allowances are based, rather than the 40,000 square-foot site area allowed by zoning code section 33.930.025.*
- *Allowance of bonus FAR would be discretionary rather than mandatory, as would be the accommodation of any such bonus FAR by means for modification of the 100-foot height standard.*
- *The allowance of 15,200 square feet of bonus floor area through the locker room bonus in zoning code section 33.510.210.C.8 should not have been granted as the bonus was intended to benefit bicycle commuters and was not intended for residential structures.*

*The proposed restaurant and retail use along the Greenway is intended only to justify the large number of underground parking spaces for apartment tenants, which would not otherwise be allowable. The chance of a business succeeding in this location is remote.*

**Review of the case file:** The Design Commission decision and all evidence on this case are now available for review at the Bureau of Development Services, 1900 SW 4<sup>th</sup> Avenue, Suite 5000, Portland, OR 97201. Copies of the information in the file can be obtained for a fee equal

to the City's cost for providing those copies. I can provide some of the information over the phone.

**We are seeking your comments on this proposal.** The hearing will be held before the City Council. To comment, you may write a letter in advance, or testify at the hearing. In your comments, you should address the approval criteria, as stated above. Please refer to the file number when seeking information or submitting testimony. Written comments **must be received by the end of the hearing** and should include the case file number and the name and address of the submitter. It must be given to the Council Clerk, in person, or mailed to 1221 SW Fourth Avenue, Room 140, Portland, OR 97204. A description of the City Council Hearing process is attached.

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

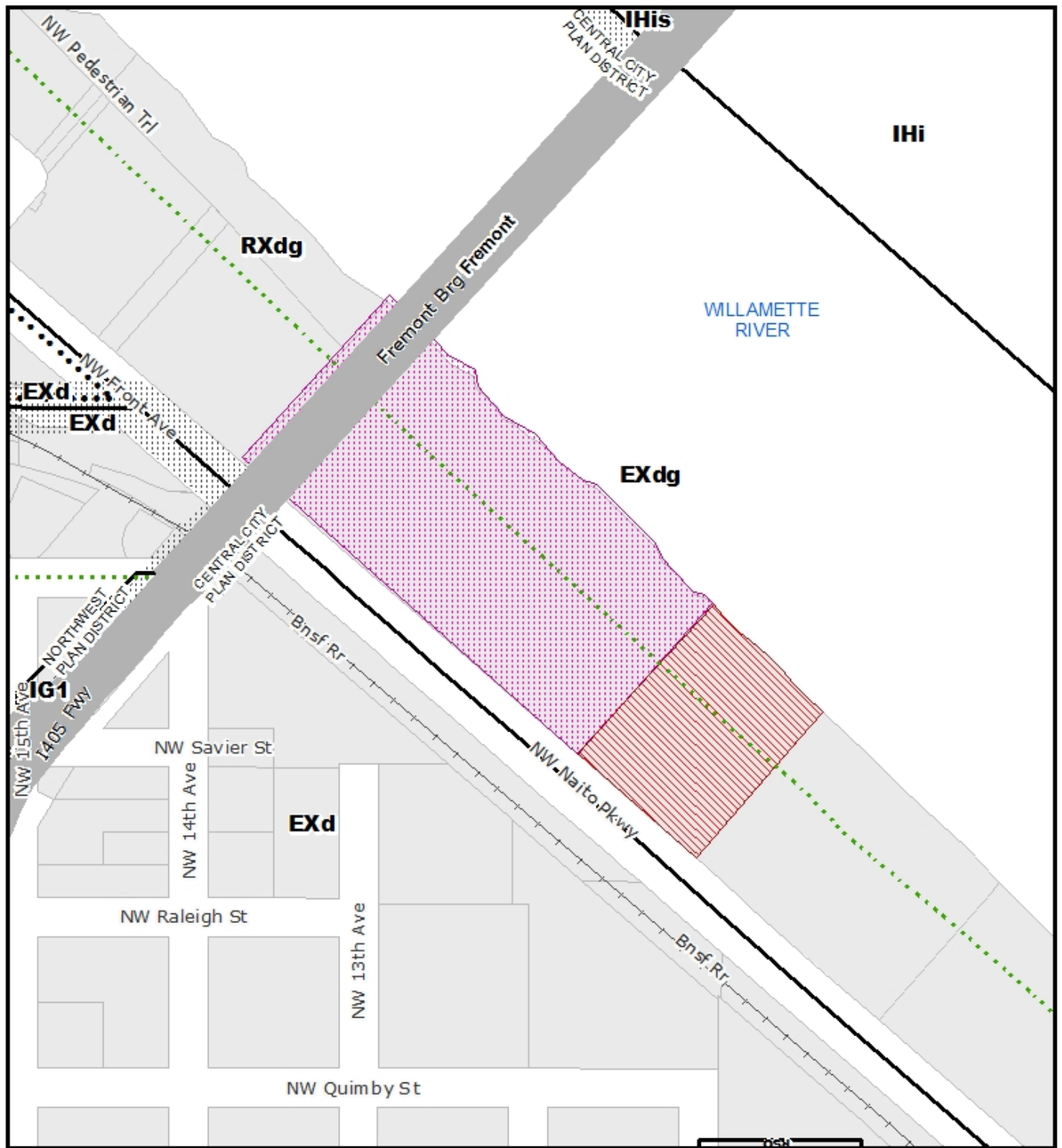
City Council's decision is final. Any further appeal must be filed with the Oregon Land Use Board of Appeals (LUBA). Failure to raise an issue in a hearing, in person or by letter, by the close of the record or at the final hearing on the case or failure to provide sufficient specificity to afford the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

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

Attachments





1. Zoning Map
2. Site plan
3. Elevations (North, South, East, and West)
4. Appeal Statement
5. City Council Appeal Process



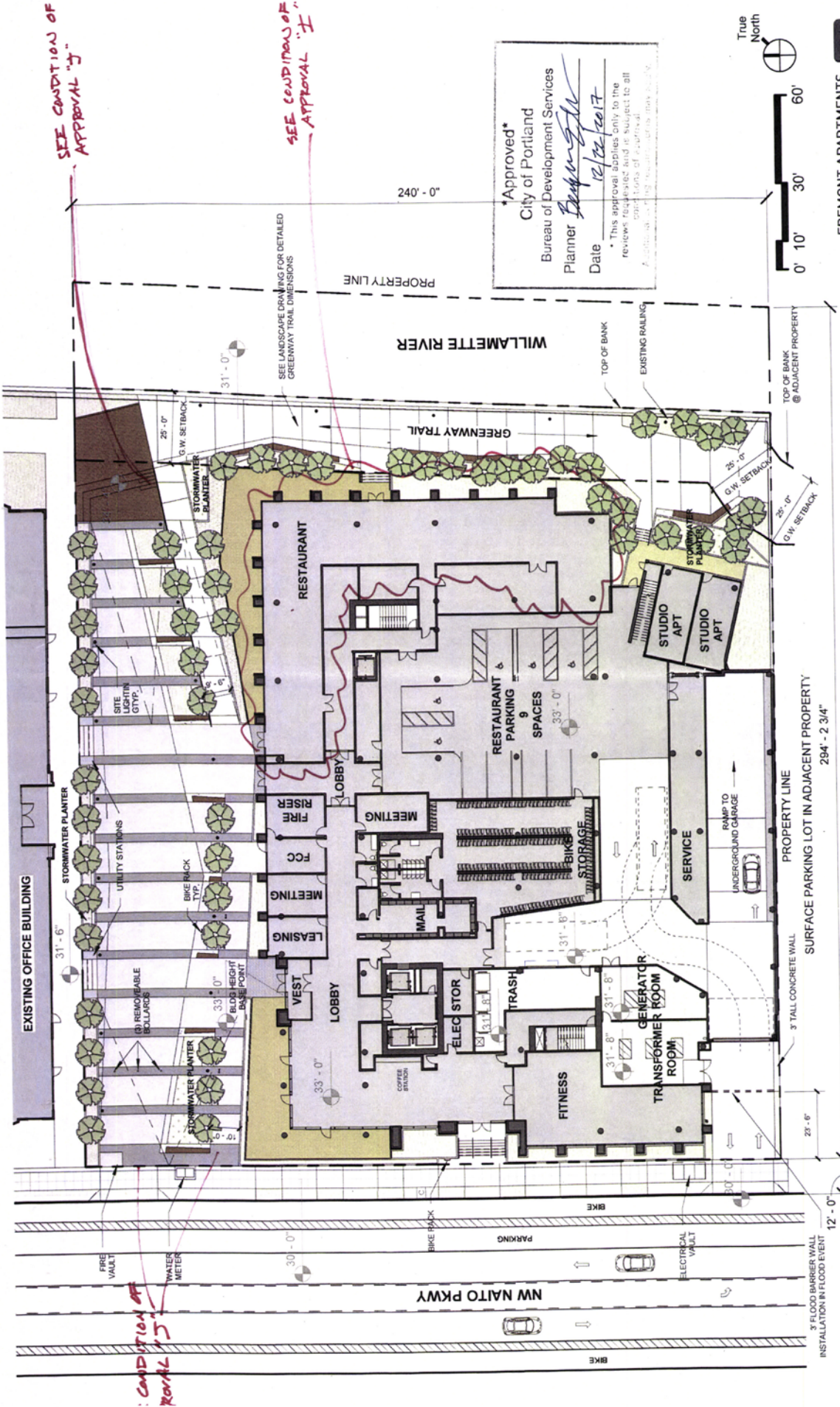


# ZONING



-  Bridge
-  Recreational Trails
-  Site
-  Also Owned Parcels

|             |                     |
|-------------|---------------------|
| File No.    | LU 16-278621 DZM GW |
| 1/4 Section | 2828                |
| Scale       | 1 inch = 200 feet   |
| State ID    | 1N1E28DD 400        |
| Exhibit     | B Aug 16, 2017      |

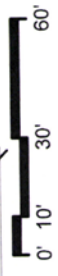


SEE CONDITION OF APPROVAL "J"

SEE CONDITION OF APPROVAL "I"

Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner *[Signature]*  
 Date 12/22/2017

\*This approval applies only to the reviewer's scope and is subject to all conditions of approval. A separate approval may be required.



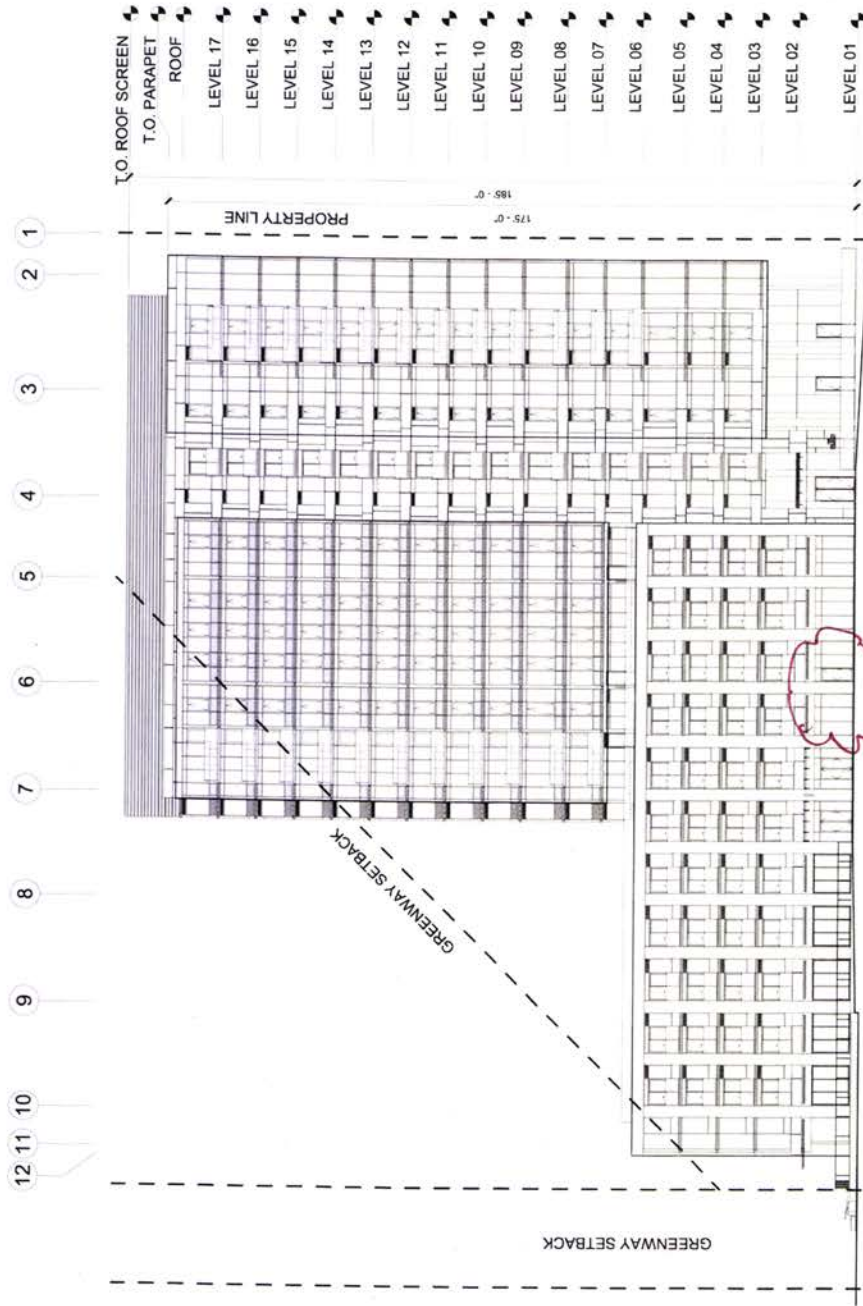
FREMONT APARTMENTS  
 Lincoln property company  
 DESIGN REVIEW # LU 16-278621 0Z GW

C.02 SITE PLAN

PROPERTY LINE  
 SURFACE PARKING LOT IN ADJACENT PROPERTY  
 294' - 2 3/4"

3" FLOOD BARRIER WALL  
 INSTALLATION IN FLOOD EVENT

CONDITION OF APPROVAL "J"



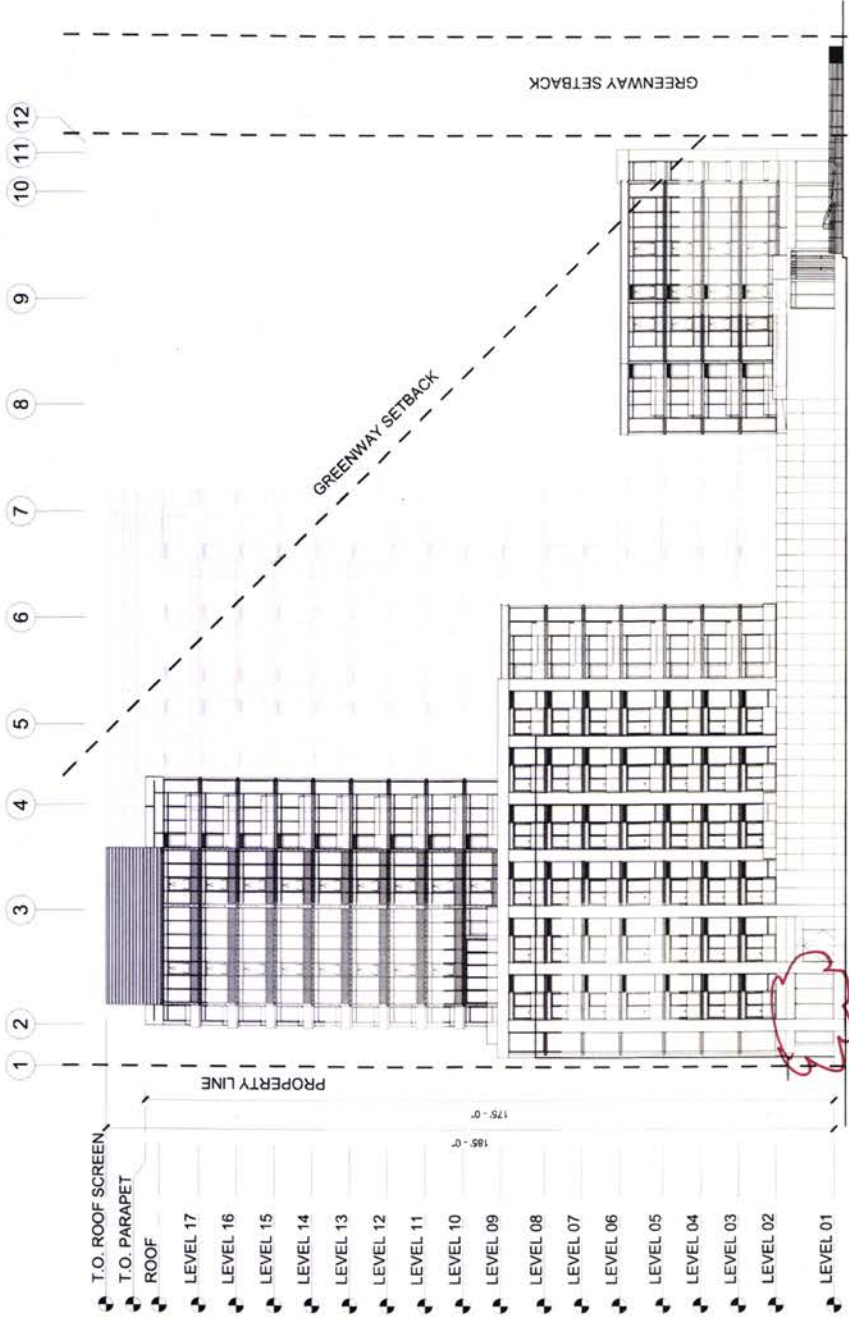
MATERIALS LEGEND - BW

- GLASS - CLEAR
- GLASS - SPANDREL - LIGHT
- GLASS - SPANDREL - DARK
- FLAT METAL PANEL - LIGHT
- FLAT METAL PANEL - DARK
- RIBBED METAL PANEL
- FIBER CEMENT PANEL - LIGHT
- FIBER CEMENT PANEL - DARK
- BRICK
- BOARD-FORMED CONCRETE

\*Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner *Deborah...*  
 Date 12/22/2017  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval.  
 Additional zoning requirements may apply.

1 NORTH ELEVATION  
 1" = 30'-0"

C.18 BUILDING ELEVATIONS - NORTH



MATERIALS LEGEND - BW

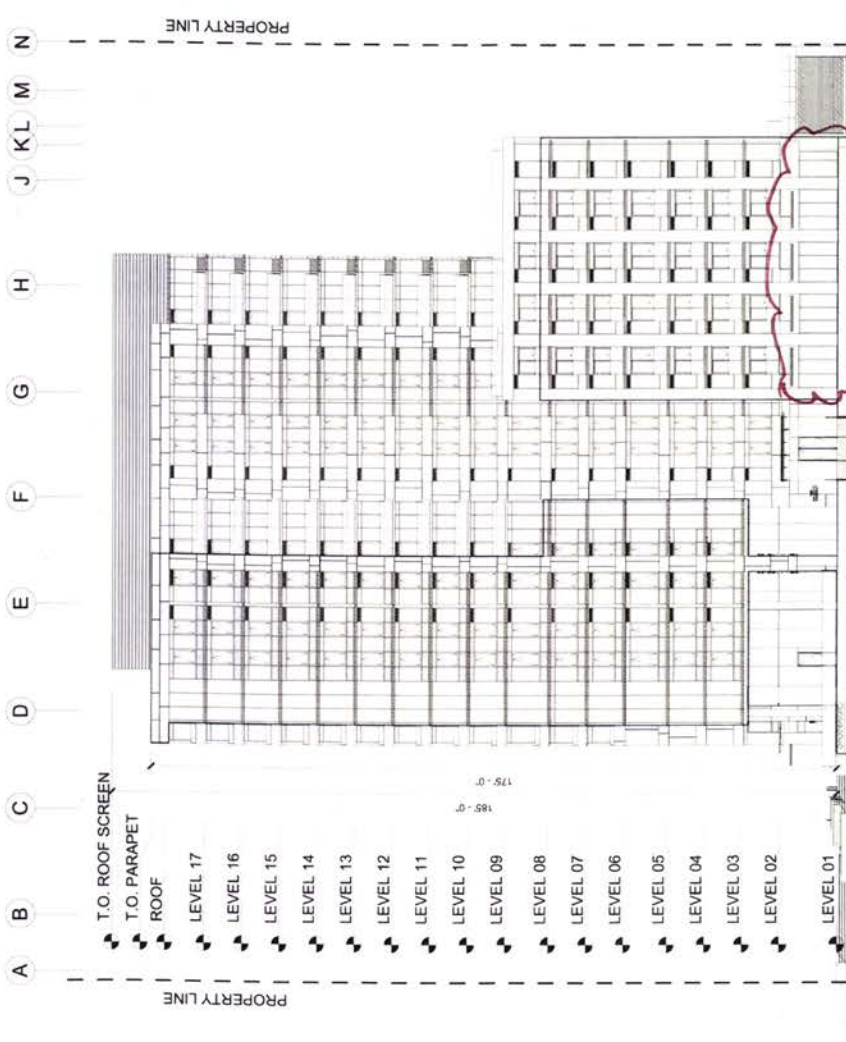
- GLASS - CLEAR
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- GLASS - SPANDREL - DARK
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- RIBBED METAL PANEL
- FIBER CEMENT PANEL - LIGHT
- FIBER CEMENT PANEL - DARK
- BRICK
- BOARD-FORMED CONCRETE

\*Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner *Becky Bell*  
 Date *12/22/2017*  
 \*This approval applies only to the reviews requested and is subject to all conditions of approval.  
 Attachment zoning requirements may apply.

1 SOUTH ELEVATION  
 1" = 30'-0"

C.20 BUILDING ELEVATIONS - SOUTH





MATERIALS LEGEND - B/W

- GLASS - CLEAR
- GLASS - SPANDREL - LIGHT
- GLASS - SPANDREL - DARK
- FLAT METAL PANEL - LIGHT
- FLAT METAL PANEL - DARK
- ▨ RIBBED METAL PANEL
- ▨ FIBER CEMENT PANEL - LIGHT
- ▨ FIBER CEMENT PANEL - DARK
- ▨ BRICK
- ▨ BOARD-FORMED CONCRETE

Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner *B. B. B.*  
 Date *12/22/2017*

\* This approval applies only to the reviews requested and is subject to all applicable approvals.



1 WEST ELEVATION  
 1" = 30'-0"

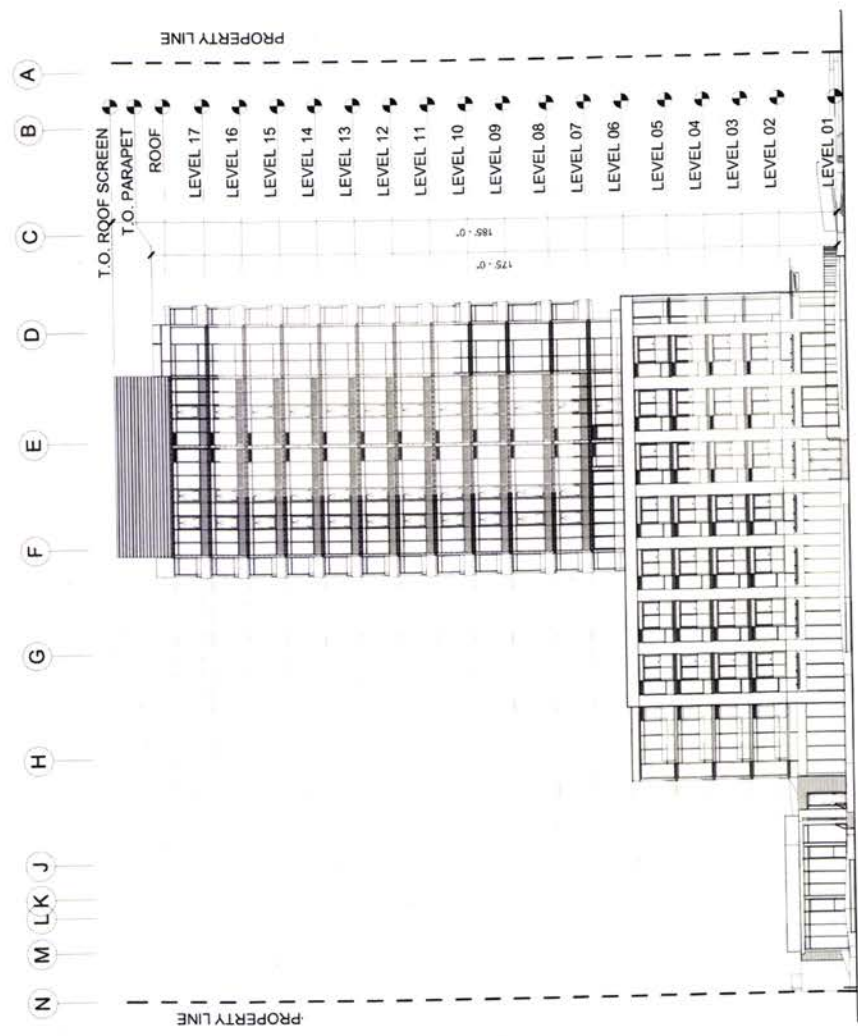


MATERIALS LEGEND - BW

- GLASS - CLEAR
- GLASS - SPANDREL - LIGHT
- GLASS - SPANDREL - DARK
- FLAT METAL PANEL - LIGHT
- FLAT METAL PANEL - DARK
- RIBBED METAL PANEL
- FIBER CEMENT PANEL - LIGHT
- FIBER CEMENT PANEL - DARK
- BRICK
- BOARD-FORMED CONCRETE

City of Portland  
 Bureau of Development Services  
 Planner *Blair Fall*  
 Date *12/12/2017*

\* This approval applies only to the reviews requested and is subject to all applicable laws, rules, and regulations.



1 EAST ELEVATION  
 1" = 30'-0"



BUILDING ELEVATIONS - EAST **C.21**





# 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: 16-278621 DZM GW

### FOR INTAKE, STAFF USE ONLY

Date/Time Received 1/11/2018 ; 4:22pm

Action Attached

Received By AP

Fee Amount \$5000.00

Appeal Deadline Date 1/11/2018

[N] Fee Waived

Entered in Appeal Log

Bill # 4248045

Notice to Auditor

[M] Unincorporated MC

Notice to Dev. Review

### APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS 1650 NW Naito Pkwy

DEADLINE OF APPEAL 1-11-18

Name Pearl District Neighborhood Association c/o Jeffrey L. Kleinman, Attorney at Law

Address 1207 SW Sixth Avenue

City Portland

State/Zip Code OR 97204

Day Phone (503) 248-0808

Email KleinmanJL@aol.com

Fax (503) 228-4529

Interest in proposal (applicant, neighbor, etc.) ONI Recognized Organization

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

Zoning Code Section 33. (SEE EXHIBIT A)

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:

(SEE EXHIBIT A, ATTACHED.)

I confirm that the vote to appeal in this matter was carried out in accordance with PDNA's bylaws.

Appellant's Signature

Stanley Perkin

PRESIDENT, PDNA

By: Stanley Perkin, President

### 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.



# City of Portland, Oregon - Bureau of Development Services

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## Type III Decision Appeal Fee Waiver Request for Organizations

|   |   |
|---|---|
| <b>FOR INTAKE, STAFF USE ONLY</b>         | <b>ORGANIZATION NOTIFICATION</b>  |
| LU Number: <u>16-278621 DZM GW</u>        | Date/Time _____   |
| Date/Time Received <u>1/11/18; 4:22pm</u> | Received By _____   |
| Received By <u>AP</u>                     | <input type="checkbox"/> Waiver Approved <input type="checkbox"/> Waiver Denied |

**APPLICANT:** Complete all sections below that apply to the proposal. Please print legibly.

**This form is to request a waiver for the fee charged for an appeal. To file an appeal, a separate form must be completed.**

Development Site Address or Location 1650 NW NAITO PARKWAY

File Number LU 16-278621 DZM GW Appeal Deadline Date JANUARY 11, 2018

### Organization and Appeal Information

Organization Name PEARL DISTRICT NEIGHBORHOOD ASSOCIATION

Person Authorized by the Organization to file the Appeal STANLEY PENKIN

Street Address 1075 NW HORTHRUP ST. #407

City PORTLAND State OR Zip Code 97209

Day Phone 845 417 8155 FAX \_\_\_\_\_ email STANLEYPENKIN@GMAIL.COM

By signing this form, the organization confirms that:

- yes  no The organization testified orally or in writing at the hearing, and the testimony was directed to a specific approval criterion;
- yes  no The appeal is being made on behalf of the recognized organization, and not on behalf of an individual; and
- yes  no The vote to appeal was done in accordance with the organization's bylaws.

Name/Title Stanley Penkin, PRESIDENT

Signature/Date 1-2-18

Please complete all of the information requested below.  
See reverse side for additional information on fee waiver requirements.

|  |
|--|
| Date of meeting when the vote to appeal the land use decision was taken : <u>12-27-17</u>  |
| The decision to appeal was made by a vote of (check one of the following):   |
| <input type="checkbox"/> The general membership in a meeting of the organization as listed above.  |
| <input checked="" type="checkbox"/> The board in a meeting of the organization as listed above.  |
| <input type="checkbox"/> The land use subcommittee in a meeting of the organization as listed above.                                       |
| Please include at least one of the following:  |
| <input type="checkbox"/> A copy of the minutes from the meeting when the vote to appeal was taken.   |
| <input checked="" type="checkbox"/> Vote results to appeal - Number of YES votes to appeal <u>10</u> Number of NO votes to appeal <u>5</u> |

### To request a waiver of an appeal fee for a land use review take:

- This completed fee waiver request form and any supplemental information necessary to qualify for a fee waiver.

The City must receive the appeal fee waiver request and 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 waiver application 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.



## **RELEVANT APPROVAL CRITERIA**

### **A. River District Design Guidelines:**

A2, A3-1, A4, A5-1-1, A5-1-5, A5-3, A5-4, B4, C4, C5

### **B. Portland Zoning Code Sections:**

33.930.025  
33.825.040.A and B  
33.140.210.B.2,  
33.266.220.C.3.b  
33.510.205.H.2  
33.510.205.H.2.c.2  
33.510.210.C.1.a.2.  
33.510.210.C.8  
33.510.251.C.3  
33.510.251.D.3.b and c  
33.440.350.A  
33.266.130.G.2.c

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## **REASONS FOR APPEAL (HOW THE PROPOSAL DOES NOT COMPLY WITH THE LISTED APPROVAL CRITERIA)**

### **I. INTRODUCTION**

For the reasons explained below, the Design Commission has ratified the stacking of several modifications, including modifications for excess height and FAR, which the Code did not require it to approve, and which violate several provisions of the Code and relevant Design Guidelines. If the commission's decision is affirmed, it will result in the effective walling off of more than a full city block's length of riverfront and the blotting out of key views of the Fremont Bridge.

Allowing a 17-story structure (plus an additional story for its rooftop mechanicals) and the additional features described in the application would create a precedent for more of the same along this stretch of the Greenway, visually and physically cutting the North Pearl District off from the Willamette

## **II. FAILURE TO COMPLY WITH RIVER DISTRICT DESIGN GUIDELINES.**

**River District Design Guideline A2.** The building's massing concept does not properly take the view of the Fremont Bridge into account and inappropriately shifts much of the mass to the north. By exceeding the normal height limitation of 100 feet by a total of 85 additional feet, the proposed structure actually obliterates a key view of the bridge itself from the Fields Park and elsewhere, which would not be impaired if the applicant complied with the 100-foot limit. The commission erred in finding otherwise.

**River District Design Guideline A3-1.** The proposal does not respect Portland's typical 200-foot block pattern. The placement of the building so close to the southern property line violates the typical 200-foot Portland block pattern, setting a precedent for future development on the adjacent parcel to create a combined development far in excess of 200 feet in length along NW Naito Parkway.

**River District Design Guideline A4.** The proposed design does not use unifying elements but, as noted by the commission's chair, creates a visual mishmash.

**River District Design Guideline A5-1-1.** The applicant's proposal does not reinforce the identity of the Pearl District Neighborhood, but serves to substantially detract from it. It creates its own neighborhood along the river almost entirely for the benefit of high-rent tenants.

**River District Design Guideline A5-1-5.** The proposal detracts from rather than reinforcing the identity of the Waterfront Area. In particular, it does not integrate an active mix of uses along the waterfront or make development open and accessible in order to maintain the publicness of the greenway.

Compare the wall-like design proposed by the applicant, with a narrow open space area confined to one end, with the design of what we would previously have considered a significant, large development on this stretch of the Willamette—the Waterfront Pearl condominiums. These are comprised of two large, landmark 10-story structures, which are surrounded by open space on all sides and by a large water feature wrapping around and between the buildings, creating a broad space between the structures and the Greenway trail. The Waterfront Pearl provides the city with the amenity of a true water feature, with moving water in ponds large enough to attract ducks.

In this case, however, the applicant contends that the Willamette is its water feature and it need not do more. The developer of the Waterfront Pearl did not have the nerve or the desire to try to hoodwink the commission in this manner. Thus far, it has worked for the applicant in this case.

This project in no way integrates an active mix of uses along the waterfront and fails to make development open and accessible in order to maintain the publicness of the Greenway. Instead, it turns the riverfront into a private benefit and amenity.

**River District Design Guideline C4.** This proposal fails to complement the context of existing buildings. It fails to use and add to the local design vocabulary, as described above with particular respect to the Waterfront Pearl, or as to McCormick Pier condominiums or any other relevant development.

In this instance, the applicant proposes a gated, walled stair entrance to a second floor roof terrace. The developments north of the Fremont Bridge have residential entries, gardens and balconies opening directly onto the Greenway trail. There is no visual connection to the Greenway trail in this proposal.

The above defects indicate noncompliance with River District Design Guidelines A5, A5-1, A5-1-1, A5-1-5, and C4.

**River District Design Guideline A5-3.** As explained above, the proposed project does not incorporate water features which enhance the quality, character and image of the River District. The stormwater planters are not a legitimate water feature and in no way form the focal point for integrated open spaces. They do not take cues from the river, bridges, or the historic industrial character in the design of structures and/or open spaces. No legitimate water feature is incorporated into this project.

**River District Design Guideline A5-4.** The project fails to integrate any works of art, as required. The supposed structural effects of the proposed benches should not and do not comprise works of art in compliance with this guideline by any rational definition of the term.

**River District Design Guideline B5.** The proposed plazas, parks and open space are not successful. The proposed plaza/open space has minimal engagement with the existing 3-story office building to the north, and a planter and grade change between the proposed plaza and existing sidewalk adjacent to the office building would block off all but one connection point on NW Naito Parkway.

**River District Design Guideline C5.** Due To its FAR-maximizing, unharmonious mix of design features and wall-like cutting off of the riverfront and Greenway, the proposed project is not designed for coherency.

### III. MISCONSTRUCTION OF SITE AREA FOR PURPOSES OF CALCULATING FAR

PZC 33.930.025 provides in material part as follows:

#### **“33.930.025 Measuring Development Standards**

Unless otherwise stated below or elsewhere in this Title, all measurements involving development standards are based on the property lines and area of the site after dedication of public rights-of-way and/or designation of private rights-of-way. Standards include, but are not limited to, building coverage, floor area ratio, setbacks, and landscaping requirements. \* \* \*” (Emphasis added)

Under this section, for the purposes of calculating site area in order to determine allowable Floor Area Ratio (FAR), it was necessary to omit the square footage of the 25-foot public Greenway strip and the 60-foot wide public open space connection between SW Naito Parkway and the river. The result is a base permissible floor area of approximately 40,000 square feet rather than the 72,080 square feet accepted as fact by the commission. Thus, even if all requested modifications were allowed, the permissible square footage for this project would have to be reduced by 44 percent.

### IV. MODIFICATION REQUESTS.

**PZC 33.825.040.** This provision allows *only* “modifications that will better meet Design Review requirements.” For the reasons explained above and which will be explained further at your hearing, the proposed modifications do not provide for better compliance with the Design Review requirements. In addition, consideration of such modifications outside the adjustment process is strictly permissive (“The review body may consider modification of site-related development standards \* \* \* as part of the design review process.”) It was therefore in no way mandatory for the Design Commission to approve any of the requested modifications. These should instead have been reviewed through the more formal adjustment process, and held to the strict approval criteria for adjustments. Indeed, under this code section, “[a]djustments 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.”

Even if held to the apparently less strict requirements of Design Review, the proposed modifications violate PZC 33.825.040.A because they do not better meet the applicable design standards, and 33.825.040.B because they are utterly inconsistent with purpose of the standards in question. With respect to proposed Modification #1 for height under PZC 33.140.210.B.2, appellant notes that the normal maximum height for this site (excluding bonuses) is 100 feet. With all the requested bonuses approved, the maximum

height would be 175 feet.

However, the applicant does not stop there but seeks a further modification to allow rooftop mechanical equipment screening to extend in an additional 10 feet, further obstructing the view of the Fremont Bridge. How does this better meet the applicable design guidelines than adhering to a 100-foot or 175-foot limit? It does not. It results in further violation of the River District Design Guidelines we discuss above.

By the same token, this modification fails in any way to comply to be consistent with the purpose of the standard. The proposed Modification #1 for height is an abuse of both the applicable design guidelines and the purpose of the height standard.

**PZC 33.266.220.C.3.b.** This modification was for the purpose of spacing long term bicycle racks closer than required by this standard, and may have been withdrawn. Appellant notes this modification only to point out that the discussion of it reflects the creation of 275 long-term bicycle parking spaces in the residential units, *i.e.*, at least one per living unit, thus obviating the need for the bogus locker room and bicycle parking area discussed below.

**PZC 33.510.205.H.2.** Modification #3 addresses the North Pearl Subarea Height Opportunity Area, seeking authorization for a 175-foot height, exceeding the normal maximum base height of 100 feet. The proposed modification would also allow the length of the facades above 100 feet to exceed 120 feet in length, with the proposed facade length on the southwest and northeast facades of the building to be 125 feet 2 inches long, and the southeast and northwest facades to be 142 feet 8 inches long.

Each of the above modifications is substantial and, under the applicable code provisions, need not have been considered at all by the Design Commission, or could simply have been denied. Instead, Modification #3 was approved, resulting in the maximum adverse impact upon the North Pearl Subarea and the River District. The Purpose Statement of this code section states that in “the North Pearl Subarea, additional building height *may* be appropriate to support the goals of the North Pearl Plan.” Thus, the proposed building height may also serve to defeat the goals of the North Pearl Plan, and may not be appropriate. The requested modification would therefore never be mandatory, but would always be discretionary at most. Moreover, contrary to the Design Commission’s conclusion, this provision makes the goals of the North Pearl Plan directly relevant to review of this application.

With respect to the specific purposes set out here, appellant would point out the following:

- The requested additional height will in no way create and support a range of community amenities.
- It will not create a visually permeable skyline and urban form providing visual access to locations in and beyond the subarea, but will have the opposite effect.
- It will not result in a dynamic or varied skyline or urban form contributing to the health, vibrancy, or livability of urban living.
- It will not shape building massings allowing light and air to penetrate the street level, or enhance pedestrian scale, or create a pleasant, versatile and active public realm. It will achieve the opposite result.
- It will not provide a range of building types fulfilling the design objectives of the purpose statement, but create a visual mess instead.

In addition, the proposed additional height will not comply with the purpose statement as to development along the waterfront of the North Pearl Subarea, as follows:

- It will not increase sunlight along the Greenway and within the public and private open space areas developed along the waterfront. It will have the opposite effect.
- It will not create an active urban waterfront with a vibrant public realm. Instead, it will have a suppressive effect.
- It will not work with the open area and waterfront development provisions of the North Pearl Subarea in the creation of well designed public and private urban open space amenities.
- It will not facilitate visual and physical access to and along the riverfront for all members of the public. It will have the opposite effect—that of a great wall.
- It will not create expanded opportunities for views of the river as viewed from Naito Parkway and Front Avenue, landward portions of the subarea, and locations west of the subdistrict. It will have the opposite effect.
- With respect to the specific purpose of ensuring that bonus height granted to sites adjacent to the Fremont Bridge not significantly affect views of or diminish the aesthetic qualities of the bridge or its iconic stature on the

skyline, the proposed additional height will again have the opposite effect.

We note that with respect to the requested bonus height, PZC 33.510.205.H.2.c.2 does not allow bonus height if the length of any facade above 100 feet of building height is more than 120 feet long, unless there is a further modification for facade length. Accordingly, the applicant only achieves the additional, excessive building height by stacking modifications and obtaining permission for excessive facade length. The result is the negative impacts described here.

Appellant also incorporates by reference here its discussion of the applicable Design Guidelines, above.

**PZC 33.510.251.C.3.** Modification #4 proposes to compound the other defects in this proposal through violation of the required open area development standards. In particular, the relevant shadow standard for the plaza area creating the purported open space would be 84% covered by shadow, 34% above the limit of 50% at noon on April 21 of each year. This in no way better meets the applicable design guidelines, addressed at length above. Rather, it again has the opposite effect. It also fails to meet the purpose of the relevant standard, *i.e.*, providing a reasonable amount of sunlight to users of the open area.

**PZC 33.510.251.D.3.b&c.** Modification #5 proposes to exceed the North Pearl Subarea waterfront development standards both as to setback for development from the Willamette River, and maximum building dimension. Again we see a compounding of the accumulated modifications. The applicant proposes to allow portions of the building over 35 feet in height to extend into the Greenway setback area, and for the maximum building dimension to exceed the permitted 200 feet perpendicular to the river by nearly 31 feet. This will not better meet the above design guidelines or be consistent with the purpose of the standard sought to be modified. With all the accumulated, requested modifications, the proposed project is already oppressive with respect to the Greenway and as to its uninterrupted mass. Jamming the sole open area onto one side of the property will not allow for the requisite views and physical connections to the river and its activities.

## **V. GREENWAY REVIEW UNDER PZC 33.440.350**

**PZC 33.440.350.A.** Under Issue A, Relationship of Structures to the Greenway Setback Area, Guideline 1, "Structure Design," the structure design does not complement or enhance the Greenway Setback Area. Rather, as we have explained, it intrudes upon it to the maximum possible extent, and effectively walls it in.

Under Guideline 2, regarding structure alignment, the proposed modification results in a failure to follow the Central City's typical 200-foot grid.

Under Issue B, Public Access, Guideline 1, Public Access Opportunities are not sufficiently integrated along the river. There is just one access point on this project of more than one city block's length.

## **VI. DEVELOPMENT STANDARDS.**

### **PZC 33.510.210.C-Bonus Floor Area.**

The first 144,160 square feet of the project would be allowed through the 2:1 base FAR available for the 72,080 square feet of the site, assuming that were the relevant square footage instead of 40,000 square feet as provided by PZC 33.930.025. The Design Commission has allowed a 100% floor area bonus of an additional 144,160 square feet through the residential bonus provisions of PZC 33.510.210.C.1.a.2.

However, as explained above, the allowance of this bonus FAR would be discretionary and not mandatory, as would be the accommodation of any such bonus FAR by means for modification of the 100-foot height standard. For all the reasons explained above, neither the requested bonus FAR nor the height requested to accommodate it should be allowed, and the commission erred in approving them.

The applicant claims additional FAR of 15,200 feet as a locker room bonus for its supposed locker room/bike storage/shower and dressing area, under PZC 33.510.210.C.8. A review of the history of this bonus provision shows that it has been requested by developers on approximately nine occasions. We believe that, in each instance, this was for office/commercial uses as to which employees would bicycle to work. In other words, this provision is intended to benefit incoming bicycle commuters.

This provision was not intended for residential structures, where residents shower in their own units. With particular regard to this project, there will already be a bicycle storage area in each apartment. After storing their bicycles in their units, will residents then run downstairs to shower in the locker room rather than in their apartments? This is obviously not the case. The locker room proposed for this project is intended not for any real use, but simply to achieve additional, bonus FAR. This request for added FAR must be denied.



**VII. PROPOSED RESTAURANT/RETAIL USE;  
PROPOSED MODIFICATION REGARDING PARKING**

The proposed restaurant and retail use along the Greenway at the northeast corner of the site is intended only to justify the large number of requested underground parking spaces for apartment tenants, which would not otherwise be allowable. The chance of the businesses in question actually succeeding and remaining open for business is substantially less than the chance had by *Lucier* restaurant near the Strand condominiums, which failed in spite of enormous foot traffic from Tom McCall Waterfront Park and nearby residential development and hotels, and never reopened. The relevant condition of approval in this case can assure only empty space which cannot be used for anything else, all to secure the desired indoor parking for tenants.


**PZC 33.266.130.G.2.c** Moreover, proposed Modification #7, intended to further enhance the underground parking amenity, does not comply with this provision regarding required landscaping, in part substituting a concrete wall for the required trees, shrubs, and ground cover. It violates the purpose of creating an environment inviting to pedestrians, and does not better meet the design guidelines.

**VIII. CONCLUSION.**

For each of the above reasons, the Design Commission erred in approving the subject project. The City Council should sustain this appeal and deny the application.

To the extent the applicant may still desire any of the requested modifications, the applicant should be required to resubmit through the city's adjustment processes, where an appropriate level of scrutiny would be applied.

Respectfully submitted this 11th day of January, 2018.

  
\_\_\_\_\_  
Jeffrey L. Kleinman  
Attorney for Appellant  
Pearl District Neighborhood Association

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

**1. SUBMISSION OF TESTIMONY**

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

**2. HEARINGS PROCESS**

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

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

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

**3. OTHER INFORMATION**

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

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