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Emailed: Ben Nielsen, Linly Rees, Lauren King, Maja Haium, Brett Horner, Tate White, BDS Hearings Clerk, Douglas Morgan, Kurt Krueger, Dawn Krantz, Robert Haley, Dawn Uchiyama, Stephen Himes, Mari Moore, Sara Drake, Toni Anderson, Meghaan Davis

**LU 16-278621 DZM GW**

**Order mailed: JUN 6 2018**





June 6, 2018

Tim Wybenga  
TVA Architects  
920 SW 6<sup>th</sup> Ave #1500  
Portland, OR 97204

Bonnie Chiu, TVA Architects

**RE: LU 16-278621 DZM GW**

Appeal on behalf of the Pearl District Neighborhood Association against Design Commission's decision of approval for design review with modifications and concurrent greenway review for the Fremont Apartments, a 17-story mixed-use building at 1650 NW Naito Pkwy (Hearing; LU 16-278621 DZM GW)

To Whom It May Concern:

Enclosed is a copy of the Order of Council on LU 16-278621 DZM GW. This Order must be recorded with the Multnomah County Recorder within 10 days of receipt of this letter. **Please send a check for \$61.00 made payable to the Multnomah County Recorder, indicating the file number on your check and SEND TO: The City of Portland, Office of the City Auditor, 1221 SW 4<sup>th</sup> Ave. Room 130, Portland, OR 97204-1900**

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with LUBA within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have appeared orally or in writing during the City's proceedings on this land review. LUBA's address is: DSL Building, 775 Summer Street NE, Suite 330, Salem, OR 97301-1283. You may call LUBA at 1-503-373-1265 or visit LUBA's website ([www.oregon.gov/LUBA](http://www.oregon.gov/LUBA)) for further information on filing an appeal.

Yours sincerely,  
Mary Hull Caballero  
Auditor of the City of Portland

By:

Karla Moore-Love, Council Clerk

Cc: Patrick Gilligan, Lincoln Property Co LLC, Fremont Place  
Encl.





**NOTICE OF FINAL DECISION**

TO: All Interested Persons

DATE: June 6, 2018

RE: LU 16-278621 DZM GW

Appeal on behalf of the Pearl District Neighborhood Association against Design Commission's decision of approval for design review with modifications and concurrent greenway review for the Fremont Apartments, a 17-story mixed-use building at 1650 NW Naito Pkwy (Hearing; LU 16-278621 DZM GW)

To Whom It May Concern:

Enclosed is a copy of the Order of Council on LU 16-278621 DZM GW, to deny the appeal of the Design Commission decision and approve the Design Review and concurrent Greenway Review for the proposed 17-story, approximately 305,936 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, as modified by and subject to the revised design materials submitted by the Applicant on April 11, 2018, April 18, 2018, and May 9, 2018. If you wish to obtain a copy of the City Council's findings and decision, please contact Karla Moore-Love, Council Clerk by email at: [Karla.Moore-Love@portlandoregon.gov](mailto:Karla.Moore-Love@portlandoregon.gov) or at (503) 823-4086.

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with LUBA within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have appeared orally or in writing during the City's proceedings on this land review. LUBA's address is: DSL Building, 775 Summer Street NE, Suite 330, Salem, OR 97301-1283. You may call LUBA at 1-503-373-1265 or visit LUBA's website ([www.oregon.gov/LUBA](http://www.oregon.gov/LUBA)) for further information on filing an appeal.

Yours sincerely,  
Mary Hull Caballero  
Auditor of the City of Portland

By:

Karla Moore-Love, Council Clerk

Encl.



**APPEAL ON BEHALF OF THE PEARL DISTRICT NEIGHBORHOOD ASSOCIATION AGAINST  
DESIGN COMMISSION'S DECISION OF APPROVAL FOR DESIGN REVIEW WITH  
MODIFICATIONS AND CONCURRENT GREENWAY REVIEW FOR THE FREMONT  
APARTMENTS, A 17-STORY MIXED USE BUILDING AT 1650 NW NAITO PARKWAY  
(HEARING; LU 16-278621 DZM GW)**

**Applicant/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  
920 SW 6th Ave #1500  
Portland, OR 97204  
Bonnie Chiu, TVA Architects

**Owner:** Patrick Gilligan, Lincoln Property Company LLC, Fremont Place  
1211 SW 5<sup>th</sup> Ave Suite 700  
Portland, OR 97204

**Site Address:** 1650 NW NAITO PKWY

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

**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 305,936 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 six stories with a height of approximately 64'-0". A roof deck will sit atop this massing and face the river. The six-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, 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 305,936 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 and the 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 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 33,620 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.

Six (6) **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) 33.510.205.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".
- 3) 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 21st of any year, not including shadows from trees. Approximately 78% of the plaza will be in shadow at noon.
- 4) 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 217'-3" in the east-west direction, i.e., perpendicular to the river, rather than the maximum allowed 200' dimension.
- 5) 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.
- 6) 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.

During the course of a pending appeal before the City Council, the Applicant submitted a revised design proposal dated April 11, 2018, together with subsequent revised design drawing submittals dated May 19, 2018. This revised design was the subject of a public hearing before the City Council on May 10, 2018, and this revised design is reflected in the proposal description above.

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.

The City Council appeal hearing was opened in the Council Chambers, 1221 SW 4<sup>th</sup> Avenue on February 21, 2018 at approximately 2:00 p.m. After hearing public testimony and considering the evidence in the record, Council continued the hearing to March 7, 2018 at 10:15 a.m. On March 7, 2018 at approximately 10:15 a.m., Council voted 5-0 to tentatively uphold the appeal and deny the application; overturn the Design Commission’s decision to approve the requested Fremont Apartments design review with modifications and concurrent greenway review, and ordered findings be prepared for April 4, 2018 at 11:00 a.m. On April 4, 2018 at approximately 11:00 a.m., Council voted 2-3 against adopting findings to uphold the appeal. The Council then voted 3-2 to reopen the record and continue the hearing, accepting new testimony and a revised design proposal from the applicants and continued the hearing to May 10, 2018 at 2:00 p.m. On May 10, 2018 at approximately 2:00 p.m., Council heard additional testimony and voted 4-0, tentatively rejecting the appeal and upholding the Design Commission’s decision to approve the proposal, with the additional revisions presented and striking original conditions of approval K and H, and ordered findings be prepared for May 31, 2018 at 2:00 p.m. On May 31, 2018 at approximately 2:00 p.m., Council voted 5-0 to deny the appeal of the Pearl District Neighborhood Association and uphold the decision of the Design Commission, as modified by the design revisions submitted by the applicant and adopt the findings.

## DECISION

Based on evidence in the record and adoption of the Council’s Findings and Decision in **Case File LU 16-278621 DZM GW** and by this reference made a part of this Order, **it is the decision of Council to deny the appeal of the Design Commission decision and approve the Design Review and concurrent Greenway Review for the proposed 17-story, approximately 305,936 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, as modified by and subject to the revised design materials submitted by the Applicant on April 11, 2018, April 18, 2018, and May 9, 2018;**

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) 33.510.205.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".
- 3) 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 21st of any year, not including shadows from trees. Approximately 78% of the plaza will be in shadow at noon.
- 4) 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 217'-3" in the east-west direction, i.e., perpendicular to the river, rather than the maximum allowed 200' dimension.
- 5) 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.
- 6) 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.

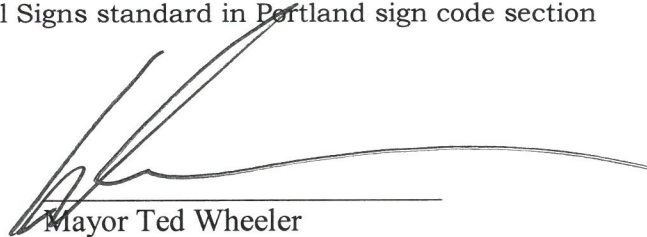
Approvals per Exhibits C.1-C.119, signed, stamped, and dated December 22, 2017 or May 31, 2018, and subject to the following conditions:

- 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 16-278621 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 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.
- I. Signage denoting public access to the Greenway trail shall be placed at both ends of the pedestrian way, and the signs shall meet the Directional Signs standard in Portland sign code section 32.32.030.H.

**IT IS SO ORDERED:**

JUN 06 2018  
Date



Mayor Ted Wheeler  
Presiding Officer at Hearing of  
May 31, 2018  
2:00 p.m. Session