



# City of Portland, Oregon - Bureau of Development Services

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## Type III Decision Appeal Form

LU Number: 19-145295 DZ

### FOR INTAKE, STAFF USE ONLY

Date/Time Received 2/18/20 12:38 pm

Received By Jessica Rodriguez-Soto

Appeal Deadline Date 2/18/20 5pm

Entered in Appeal Log

Notice to Auditor

Notice to Dev. Review

Action Attached narrative copy of decision

Fee Amount \$ 5,000

Fee Waived

Bill # 4656148

Unincorporated MC

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

PROPOSAL SITE ADDRESS 350 NW 12th Ave.

DEADLINE OF APPEAL 2/18/2020

Name Pearl Neighbors for Integrity in Design - Represented by Carrie Richter

Address 1000 SW Broadway, Ste. 1910

City Portland

State/Zip Code OR 97205

Day Phone 503-972-9920

Email crichter@batemanseidel.com

Fax \_\_\_\_\_

Interest in proposal (applicant, neighbor, etc.) Group of South Pearl residents and businesses.

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

Zoning Code Section 33. \_\_\_\_\_ . \_\_\_\_\_

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 ATTACHED

Appellant's Signature Carrie Richter

### 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.

## Hyatt Place Type III Appeal of Design Commission Decision

Case File: LU 19-145295 DZ, EA 18-181375 APPT, PC 18-202411, EA 18-210300 DA

Appellant: Pearl Neighbors for Integrity in Design (PNID)  
Patricia Cliff  
311 NW 12<sup>th</sup> Ave. #1502  
Portland, OR 97209-2997

Representative: Carrie Richter  
Bateman Seidel  
1000 SW Broadway #1910  
Portland, OR 97204

PNID is an affiliation of residents and business owners promoting livability, safety and quality design throughout the Pearl District. PNID and its counsel participated both orally and in writing throughout the proceedings before the Design Commission.

Portland City Code Criteria and other standards that form the basis for this Appeal include:

- 33.825.010 Purpose of Design Review
- 33.825.035 Factors Reviewed During Design Review
- 33.825.055 Approval Criteria
- 33.825.055 Design Review Approval Criteria
  - The River District Design Goals
  - Central City Plan Design Goals
    - A2 – Emphasize Portland Themes
    - A4 – Use Unifying Elements
    - A5 – Enhance, Embellish and Identify Areas
    - A 5-1 – Reinforce Special Areas
    - A5 1-1 – Reinforce the Identity of the Pearl District Neighborhood
    - A7 – Establish and Maintain a Sense of Urban Enclosure
    - A8 – Contribute to a Vibrant Streetscape
    - B2 – Protect the Pedestrian
    - B1 – Reinforce and Enhance the Pedestrian System
    - B-1 – Provide Human Scale to Buildings along Walkways
    - C4 – Complement the Context of Existing Buildings
    - C6 – Develop Transitions between Buildings and Public Spaces
    - C9 – Develop Flexible Sidewalk-Level Spaces
- 33.510.200 Floor Area Ratios
- 33.510.205 Floor Area Bonus and Transfer Options
- 33.510.210 Height
- Oregon Statewide Planning Goals and Implementing Rules
  - Goal 12 – Transportation – OAR Chapter 660, Section 12

Issues to be raised on appeal will involve the arguments presented to the Design Commission. These arguments may include, but shall not be limited to, the following:

- The vehicle demand generated by the proposed 160 hotel rooms and 110 studio apartments cannot be accommodated with the severely constrained  $\frac{1}{4}$  block frontage including the NW Flanders dedicated bikeway on one side and the undersized, two-lane NW 12<sup>th</sup> Ave on the other. No other street in the Central City will have this level of activity serviced by a meager 100 linear feet of street frontage. Vehicle congestion resulting from tourist ride-share demand, tour buses, service trucks backing out of a loading area coupled with traffic accessing adjacent garages will endanger pedestrians and multimodal transportation users. The Design Commission erred by refusing to take these impacts into account when they are the direct result of the applicant's design choices including building height, access and orientation. Any claim that traffic circulation and safety issues cannot be considered is belied by the fact that PBOT is asked to comment and does steer design review as a result of traffic safety concerns for other development throughout the Central City.
- The applicant cannot rely on land use standards and criteria that are not currently in effect as a result of LUBA's decision in *Restore Oregon v. City of Portland*, and as affirmed by the Court of Appeals.
- The Flanders Street bikeway is a "unique feature" that was not integrated into, nor enhanced by the approved design. The Flanders Green Bikeway, planned as a "protected bikeway," has been seven years in the planning. It will serve to link the East/West bikeway from the river to NW 24th Avenue. This bikeway is a big deal and yet the proposed design turns its back on cyclists and instead caters to tourists, arriving by vehicle or on-foot. The bicycle access to this building has been relegated the secondary façade as a shared, de-emphasized access. Cycling is a Portland theme, just like water features, that is not acknowledged by this design in the first instance. The bicycling access must be the primary access and should not be shared with the secondary residential access as a way to advertise and incentivize bicycling – making it more attractive than driving. Bicycle access should be direct onto NW Flanders. Further, the lack of any on-site, temporary, covered short-term bicycle parking further discourages bicycling.
- The intensity of this development – 160 hotel rooms and 110 studio units located within a quarter block – is precedent setting. This level of developed intensity served only by a limited quarter block corner frontage, designed to cater to hotel guests, will spill onto already constrained streets, endangering pedestrian and bicyclists, impairing the pedestrian realm. On the NW 12<sup>th</sup> quarter-block frontage, two loading docks, the frequent "curb side drop off" of Ubers, Lyfts, Taxis and vehicles in need of valet parking; idling tour buses (all serviced by two available, allocated parking spaces on NW 12<sup>th</sup>); impairs the safety of bicyclist exiting and entering the apartment building through the residential lobby in the middle of the 100 linear feet on NW 12<sup>th</sup> with severe sight limitations, given the two-way traffic on NW 12<sup>th</sup> and the comings and goings of the traffic entering and exiting Oakwood and Casey garages on NW 12<sup>th</sup> between Everett and Flanders.

- The approved massive, uber-tall design will cast the street as well as much of the neighboring 13<sup>th</sup> Avenue Historic District into shadow detracting from rather than complement the existing built environment.
- The approved design does not “enhance” or otherwise contribute to the established design vocabulary or the existing functioning of the South Pearl District to the same degree that it negatively impacts it. In other words, this building offers no benefits. The Design Commission erred by not requiring that the building “enhance” the neighborhood to a degree that is commensurate with introducing incompatible building height and operational intensity that creates a safety crisis at the intersection of NW Flanders and NW 12<sup>th</sup> Avenue.
- The Design Guidelines require compatible design, including building height, or a proportional level of mitigation. The proposed design is 7 stories taller than any other building in the South Pearl. This height is incompatible and yet nothing in the form of enhanced design elements was offered as mitigation. The Design Commission misunderstood its scope of review; it mistakenly assumed that it could not review issues relating to building height.
- The City can accommodate its density objectives without allowing uber-tall buildings throughout the Central City destroying neighborhood character. More sensitive and context appropriate design alternatives were available but the Design Commission was not offered this alternative. One Commissioner stated “we cannot deal with height and massing anyway” so the Design Commission felt hamstrung, approving a design that bent the applicable standards beyond the breaking point.
- The 100-year old tree is a “special feature” that contributes to the “character of the area” that will be destroyed by this proposal. It was not integrated or its loss mitigated in any respect. Again, the Design Commission members identified this concern but cited the inability to do anything about it. The relief valve for when an applicant cannot meet a standard is a modification rather than avoidance.
- Given the unique proximity of the Flanders Street bikeway, on-site, off-street bicycle parking on this property must be provided.
- The failure to provide any on-site vehicle parking, although they are removing approximately 38 publicly accessible parking spaces which presently occupy the site, which yields negative community parking availability.
- The effect of the intensity of use and carbon footprint of a 270-unit building (160 hotel rooms and 110 apartments) on a 10,000 square foot heavily trafficked site without seeking any LEED certification dismissing sustainability and low impact construction or operation objectives that has become an established Portland-theme for new construction, particularly in the Pearl.
- The Design Commission erred by not taking into account the location, capacity and conflicts resulting from a valet / ride-share loading area. The traffic congestion caused multimodal uses on the 100 linear feet on the two-way NW 12<sup>th</sup> includes: 2 loading docks

for delivery of goods, removal of trash, that may or may not include two valet parking spaces to service all pick up/drop off vehicles and valet parking needs, idling tour buses, is incompatible with surrounding development and downright dangerous.

- The precedent setting issues given the proliferation of 10,000 square 14 surface level parking lots in the South Pearl alone. These “super tall pencil towers” will overwhelm and destroy the character and context of the South Pearl, which is one of the major tourist attractions to Portland.
- The value of preserving the cultural and ethnic diversity of the South Pearl which extends west of the New Chinatown/ Japantown area, including African American community who were pushed out of smaller, brick and wooden frame buildings. The community which resided here should be commemorated by preserving the comparably low-rise character of the South Pearl district rather than a pattern of incompatible “vertical sprawl” that the Design Commission approval sets in motion.