



City of Portland, Oregon - Bureau of Development Services

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Type III Decision Appeal Form

LU Number: LU 20-102914 DZM GW AD ~~XXXXXXXXXX~~

FOR INTAKE, STAFF USE ONLY

Date/Time Received 8/7/20 at 10:55am

☒ Action Attached Narrative

Received By Mary Butenschoen

Fee Amount \$5,000

Appeal Deadline Date 8/7/20 at 4:30pm

[Y] ☒ Fee Waived

☐ Entered in Appeal Log

Bill # 4717613 & 4717615 (\$2,500 each)

☐ Notice to Auditor

[Y] ☒ Unincorporated MC

☐ Notice to Dev. Review

APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS property bounded by SW Bond, SW Lane, SW Lowell & Willamette River

DEADLINE OF APPEAL August 7, 2020

Name Carrie Richter, Bateman Seidel, on behalf of Leonard Gionet, Yvonne Meekcoms & Mary Henry de Tissan

Address 1000 SW Broadway, Suite 1910

City Portland

State/Zip Code OR, 97205

Day Phone 503.972.9903

Email crichter@batemanseidel.com

Fax 503.972.9043

Legal representative for neighbors Leonard Gionet, Yvonne Meekcoms

Interest in proposal (applicant, neighbor, etc.) and Mary Henry de Tissan

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

Zoning Code Section 33. See attached

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.

Type III Appeal Hearing Procedure

A Type III Decision may be appealed only by the applicant, the owner, or those who have testified in writing or orally at the hearing, provided that the testimony was directed to a specific approval criterion, or procedural error made. It must be filed with the accompanying fee by the deadline listed in the decision. The appeal request must be submitted on the Type III Appeal Form provided by the City and it must include a statement indicating which of the applicable approval criteria the decision violated (33.730.030) or what procedural errors were made. If the decision was to deny the proposal, the appeal must use the same form and address how the proposal meets all the approval criteria. There is no local Type III Appeal for cases in unincorporated Multnomah County.

Appeal Hearings for Type III Decisions are scheduled by the City Auditor at least 21 days after the appeal is filed and the public notice of the appeal has been mailed.

Appellants should be prepared to make a presentation to the City Council at the hearing. In addition, all interested persons will be able to testify orally, or in writing. The City Council may choose to limit the length of the testimony. Prior to the appeal hearing, the City Council will receive the written case record, including the appeal statement. The City Council may adopt, modify, or overturn the decision of the review body based on the information presented at the hearing or in the case record.

Appeal Fees

In order for an appeal to be valid, it must be submitted prior to the appeal deadline as stated in the decision and it must be accompanied by the required appeal fee or an approved fee waiver. The fee to appeal a decision is one-half of the original Bureau of Development Services Land Use Services application fee. The fee amount is listed in the decision. The fee may be waived as follows:

Fee Waivers (33.750.050)

The director may waive required fees for Office of Neighborhood Involvement (ONI) Recognized Organizations and for low-income applicants when certain requirements are met. The decision of the director is final.

A. ONI Recognized Organizations Fee Waiver

Neighborhood or business organizations recognized by the City of Portland Office of Neighborhood Involvement (ONI) or Multnomah County are eligible to apply for an appeal fee waiver if they meet certain meeting and voting requirements.

These requirements are listed in the Type III Appeal Fee Waiver Request for Organizations form and instruction sheet available from the Bureau of Development Services Development Services Center, 1st floor, 1900 SW 4th, Portland, OR 97201. Recognized organizations must complete the Type III Appeal Fee Waiver Request for Organizations form and submit it prior to the appeal deadline to be considered for a fee waiver.

B. Low Income Fee Waiver

The appeal fee may be waived for an individual who is an applicant in a land use review for their personal residence, in which they have an ownership interest, and the individual is appealing the decision of their land use review application. In addition, the appeal fee may be waived for an individual residing in a dwelling unit, for at least 60 days, that is located within the required notification area. Low income individuals requesting a fee waiver will be required to certify their annual gross income and household size. The appeal fee will only be waived for households with a gross annual income of less than 50 percent of the area median income as established and adjusted for household size by the federal Department of Housing and Urban Development (HUD). All financial information submitted to request a fee waiver is confidential. Fee waiver requests must be approved prior to appeal deadline to be considered for a fee waiver.

Alamo Manhattan Blocks
LU 20-102915 DZM GW AD; PC # 19-225732

Appellants: Leonard Gionet and Yvonne Meekcoms
Mary Henry de Tessan

Representative: Carrie Richter
Bateman Seidel
1000 SW Broadway #1910
Portland, OR 97205

The Appellants submitted testimony in writing during the proceedings before the Design Commission by and through their attorney Carrie Richter.

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
 - South Waterfront Design Guidelines
 - Central City Fundamental Design Guidelines
 - A2 – Emphasize Portland Themes
 - A4 – Use Unifying Elements
 - A5 – Enhance, Embellish and Identify Areas
 - A 5-1 – Consider South Waterfront’s History and Special Qualities
 - D2 – South Waterfront Area
 - A1- Integrate the River
 - A1-2 Incorporate Active Uses Along the River
 - C6 – Develop Transitions between Buildings and Public Spaces
 - C4-1 – Develop Complementary Structured Parking
 - C1 – Enhance View Opportunities
 - A1-1 – Develop River Edge Variety
 - C4 – Complement the Context of Existing Buildings
 - C5 – Design for Coherency
- Oregon Statewide Planning Goals and Implementing Rules
 - Goal 12 – Transportation – OAR Chapter 660, Section 12
- 33.851.300 South Waterfront Greenway Review

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 obligation to graduate building heights from the western boundary toward the river, as set forth in Guideline D2, and reinforced elsewhere, is not achieved through simple compliance with the base, plus bonus, building heights prescribed through the Zoning

Code. Such an approach makes Guideline D2 a nullity. Further, this approach eliminates any discretion given to the Design Commission to “recognize special design values of an area” as set forth in the purpose statements of ZC 33.825.010 and complementing the “context” of the existing buildings. Contrary to the stated conclusion set forth in the findings, there is no evidence that this context appropriate evaluation as required by Guideline D2 was accomplished either at the time that the code was adopted setting the various maximum building heights or that that context was considered by the Design Commission as a means for determining what height graduation would be appropriate to satisfy these guidelines.

- Guideline A5 calls for enhancing and embellishing the character of the area. The natural river shoreline - a character defining feature of the area – recedes in a westerly direction as it moves further to the south. As a result, applying uniform riverfront setbacks, the Blocks 41 and 45 development must similarly erode such that it steps back from the river to the same degree allowing the Atwater and the Meriweather buildings to extend further to the east. The same degree of setback was not applied in this case.
- In addition to Guideline A5, Guideline C4 also requires complementing the context of existing buildings. High-rise development within South Waterfront is not characterized by towers that extend the full length of the property in any direction but rather are sculpted and narrow. This refined elegance is not just a character-defining design aesthetic for South Waterfront, it offers access to light and air to towers that will be completely blocked by the proposed massive and looming towers. The Block 41 and 45 towers create high-rise walls extending the full width from SW River Pkwy to the river blocking views of the river for everyone to the north and northwest. This approach is inconsistent with the light, airy and engaging design aesthetic that characterizes towers within the South Waterfront.
- The vehicle demand generated by the proposed development, along with the commercial ground-floor base, is severely undersized and inadequate to serve these new buildings. Vehicle congestion created by the number of new residents, commercial tenants and their customers far exceeds the parking and loading to be provided. 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.
- South Waterfront Greenway Review, ZC 33.851.300, requires development that will “better enhance the natural, scenic, historical, economic and recreational qualities of the greenway.” The provision of a pedestrian and multi-modal trail and restoration of the riverbank are the very minimum that the design guidelines require and entirely fail to exceed the standard requirements to better enhance the Greenway environment. This proposal fails to demonstrate how the proposed design will “better” provide the Greenway qualities identified.