

LU 20-123610 DZM – Consider appeal of the NW District Neighborhood Association against the Design Commission’s decision to approve with conditions a proposed new five-story mixed-use building at 1137 NW 23rd Ave in the Northwest Plan District

Applicant: Richard Dobrot, GBD Architects Incorporated
1120 NW Couch St, Suite 300
Portland, OR 97209

Representative / Owner: Seth Garey, CE John Properties 71 LLC
1701 SE Columbia River Dr
Vancouver, WA 98661

Appellant Steve Pinger
Northwest District Association
2257 NW Raleigh St
Portland, OR 97210

Site Address: 1137 NW 23rd Ave

Legal Description: BLOCK 2 LOT 1&2, GOLDSMITHS ADD; BLOCK 2 LOT 3&4, GOLDSMITHS ADD

Zoning: CM2 (MU-U)d, m; Commercial/Mixed Use 2 (CM2) with Design (d) and Centers Main Street (m) overlays.

Case Type: DZM, Design Review with Modification requests

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 applicant seeks Design Review approval for a proposed new five-story mixed-use building, with 74 apartment units on four floors above approximately 10,000 sf of ground level retail, located in the Northwest Plan District. Proposal also includes below grade parking for 44 cars, one B sized loading space, and 91 bikes, which will be all accessed off NW Northrup Street. Primary cladding materials include 3 colors of brick, metal panels, synthetic stucco, ground level aluminum and wood storefront glazing, commercial-grade vinyl windows above, metal canopies, and painted concrete at the base.

The following four (4) Modifications are requested:

1. Bike Parking – Stall Widths (PZC 33.266.220.C.3.b). Request to reduce the width of the vertically hung bike parking spaces from 24" to 18".
2. Transit Street Main Entrance - Location (PZC 33.130.242.C.3.c). Request to locate the proposed main entrance to the residential portion of the building on NW Marshall, approximately 70 feet from NW 23rd Avenue (transit street).
3. Setbacks – L3 Landscape (33.130.215.B.2.b). Request to alter the required L3 landscape screening to the west due to substantial grade differences.
4. Vehicle Parking – Stall Size (33.130.266.130 Table 266-4). Request to have two stalls be slightly obstructed by structural columns at the front of the stall, effectively reducing the stall depth to 15'-0" instead of the required 16'-0".

Design Review is required for new development in a design overlay zone (PZC 33.420.041). A Type III procedure is required because this development is in a design overlay zone and exceeds the value of \$2,366,000 (PZC 33.825.025). Modifications are required because the applicant is requesting to not meet the standards indicated above.

Relevant Approval Criteria

In order to be approved, this proposal must comply with the criteria of Title 33. The relevant criteria are:

- *Community Design Guidelines*
- *PZC Section 33.825.040 Modifications That Will Better Meet Design Review Requirements*

Procedural History

- **Approval Criteria**
For the purposes of this review, the approval criteria are those that were in effect at the time of the Project's application (February 26, 2020).
- **Land Use Application: Submitted on February 26, 2020:**
The application was deemed complete on August 20, 2020. A hearing was scheduled for October 15, 2020 - 56 days after being deemed complete. On September 30, 2020, the applicant requested that the hearing date be postponed, and on March 9, 2021, the applicant requested a new hearing date be set for May 6, 2021. On March 29, 2021, a Revised Notice of Proposal in Your Neighborhood was mailed for the rescheduled hearing date of May 6, 2021.
- **Design Commission Hearing: May 6, 2021**
The Design Commission approved the Proposal.
- **Appeal Form Submitted: June 4, 2021:**
Submitted by the Northwest District Association – represented by Steve Pinger.

- **Notice mailed for July 14, 2021 City Council Hearing: June 10, 2021.**
- **City Council Appeal Hearing #1: July 14, 2021.**
The City Council held a de novo public hearing. The hearing was in the form of a virtual meeting due to COVID 19, consistent with the governor’s Executive Order 20-16. The record placed before the Council included <https://efiles.portlandoregon.gov/record/14398402> in addition to the testimony on July 14. The City Council closed the public record on July 14, 2021 at the close of the public hearing and directed the applicant and City staff to return to the City Council on July 21, 2021 for adoption of the Final Findings and Decision.
- **City Council: July 21, 2021.**
City Council unanimously adopted the Final Findings and Decision rejecting the appeal and upholding the Design Commission decision.

Decision

The Council’s role is to review the applicant’s proposal to determine whether it meets the relevant design guidelines. As described in the findings above, Council finds that the proposed mixed-use development meets the relevant approval criteria.

Based on evidence in the record and adoption of the Council’s Findings and Decision in Case File LU 20-123610 DZM and by this reference made a part of this Order, it is the decision of the City Council to uphold the Design Commission’s decision of approval for the proposed five-story mixed-use building, with 74 apartment units on four floors above approximately 10,000 sf of ground level retail, located in the Northwest Plan District. The below grade parking for 44 cars, one B sized loading space, and 91 bike spaces will be accessed off NW Northrup Street. Primary cladding materials include 3 colors of brick, metal panels and synthetic stucco with ground level wood and aluminum storefront glazing, commercial vinyl windows above, ground metal canopies, and board formed and painted concrete at the base.

Approval is for the original proposal, Exhibits C1-52, and the alternate proposal, as depicted in Exhibits C53-C55.

City Council approves the following four (4) Modifications:

1. **Bike Parking – Stall Widths (PZC 33.266.220.C.3.b).** Request to reduce the width of the vertically hung bike parking spaces from 24” to 18”.
2. **Transit Street Main Entrance - Location (PZC 33.130.242.C.3.c).** Request to locate the proposed main entrance to the residential portion of the building on NW Marshall, approximately 70 feet from NW 23rd Avenue (transit street).
3. **Setbacks – L3 Landscape (33.130.215.B.2.b).** Request to alter the required L3 landscape screening to the west due to substantial grade differences.

4. Vehicle Parking – Stall Size (33.130.266.130 Table 266-4). Request to have two stalls be slightly obstructed by structural columns at the front of the stall, effectively reducing the stall depth to 15'-0" instead of the required 16'-0".

Approvals per Exhibits C.1-C.55, signed, stamped, and dated May 16, 2021, and, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) 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 20-123610 DZM". 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.

IT IS SO ORDERED:

07/27/21

Date

Digitally signed by Ted
Wheeler
Date: 2021.07.27
11:18:17 -07'00'

Ted Wheeler

Mayor Ted Wheeler

Presiding Officer at Hearing of

July 21, 2021

9:30 a.m. Session



July 27, 2021

Richard Dobrot
GBD Architects Incorporated
1120 NW Couch St, Suite 300
Portland, OR 97209

Seth Garey
CE John Properties 71 LLC
1701 SE Columbia River Dr
Vancouver, WA 98661

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Dear Applicant:

Enclosed is a copy of the Order of Council on LU 20-123610 DZM. This Order must be recorded with the Multnomah County Recorder within 10 days of receipt of this letter.

1. Please send a check for \$96.00 made payable to the Multnomah County Recorder, indicating the file number on your check.
2. **Mail Check To:** The City of Portland, Office of the City Auditor, 1221 SW 4th 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) for further information on filing an appeal.

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

By: *Keelan McClymont*
Keelan McClymont, Council Clerk

Encl.

Office of the City Auditor
City of Portland
1221 SW 4th Ave., Rm 130, Portland, OR 97204
(503) 823-4082





Notice of Final Decision

TO: All Interested Persons

DATE: July 27, 2021

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Enclosed is a copy of the Order of Council on LU 20-123610 DZM, denying the appeal, upholding the decision of the Design Commission, and adopting the findings. If you wish to obtain a copy of the City Council’s findings and decision, please contact the Council Clerk by email at councilclerk@portlandoregon.gov or at (503) 823-4082.

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Yours sincerely,

Mary Hull Caballero

Auditor of the City of Portland

By: *Keelan McClymont*

Keelan McClymont, Council Clerk

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Seth Garey
CE John Properties 71 LLC
1701 SE Columbia River Dr
Vancouver, WA 98661

Bureau of Development Services
Case File Grace Jeffreys
1900 SW 4th Ave #5000
Portland OR 97201

Bureau of Development Services
Hearings Clerk
1900 SW 4th Ave #5000
Portland OR 97201

Emailed: Grace Jeffreys, Lauren King,
Linly Rees, BDS Hearings Clerks,
Hearings Office Clerks, Doug Morgan,
Kurt Krueger, Dawn Krantz, Robert
Haley, Dawn Uchiyama, Stephen Himes

LU 20-123610 DZM
Order of Council mailed: 07/27/2021

Iain MacKenzie
915 SE 35th Ave, Apt 207
Portland, OR 97214

John Czarnecki
831 NW 24th AVE
Portland, OR 97210

Christe White
111 SW Columbia St, Ste 700
Portland, OR 97201

Steve Pinger
NW District Association
2257 NW Raleigh St
Portland, OR 97210