



**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: 14-125908 DZM

**FOR INTAKE, STAFF USE ONLY**

Date/Time Received <u>9/4/14 / 11:38 AM</u>	<input checked="" type="checkbox"/> Action Attached
Received By <u>S. Ellis</u>	Fee Amount <u>5,000 -</u>
Appeal Deadline Date <u>9/10/14</u>	<input checked="" type="checkbox"/> [N] Fee Waived
<input checked="" type="checkbox"/> Entered in Appeal Log	Bill # <u>3663895</u>
<input type="checkbox"/> Notice to Auditor	<input checked="" type="checkbox"/> [N] Unincorporated MC
<input checked="" type="checkbox"/> Notice to Dev. Review <u>9/9/11</u>	

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

PROPOSAL SITE ADDRESS 1040-1036 SE Belmont DEADLINE OF APPEAL 9/10/14 4:30pm  
 Name Central Eastside Industrial Council  
 Address P.O. Box 14251 City Portland State/Zip Code OR 97293  
 Day Phone 503-768-4299 Email ceic@ceic.cc Fax 503-768-4294  
 Interest in proposal (applicant, neighbor, etc.) Acknowledged Business Association

**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 - Appeal is on procedurally  
ISSUES.

Appellant's Signature Debbie Kitchin, President, Central Eastside Industrial Council

**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 for low income individual approved (attach letter from Director)
  - Fee waiver for Unincorporated Multnomah County recognized organizations is signed and attached

CASE NO. LU 14-125908 DZM  
 EXHIBIT 1 of 3 pages

The appeal must be filed by 4:30 pm on the deadline listed in the Decision. To ensure the appeal is received within this deadline, the appeal should be filed in the Development Services Center at 1900 SW 4th Ave, 1st Floor, Suite 1500, Portland, Oregon, between 8:00 am and 3:00 pm on Monday through Wednesday and Friday, and between 8:00 am and 2:00 pm on Thursday. After 3:00 pm on Monday through Wednesday and Friday, and after 2:00 pm on Thursday, the form(s) must be submitted at the Reception Desk on the 5th Floor.

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.



## CENTRAL EASTSIDE INDUSTRIAL COUNCIL

P.O. Box 14251, Portland, OR 97293-0251

Ph: 503-768-4299 – Fax: 503-768-4294

Email: [ceic@ceic.cc](mailto:ceic@ceic.cc) – Web: [www.ceic.cc](http://www.ceic.cc)

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Diana Montgomery

September 2, 2014:

**LU 14-125908 DZM AD  
LOCA/Goat Blocks**

**1004-1036 SE Belmont**

### APPEAL OF DESIGN COMMISSION DECISION ON August 14, 2014

The Central Eastside Industrial Council submitted comments in the record and has standing to appeal.

The appeal is based on two issues:

1) Title 33 has no regulatory authority over Title 17. Yet, the decision limited the City's authority under Title 17 to create an adequate street cross section through exaction of vacant land by approving a "paper wall". The wall prevents a widening of the right-of-way through the typical process of exaction of private land to public purpose. The exaction is appropriate due to the substantial increase of density of the site. In this case, from vacant land to a multiple storied building on a super block.

#### Desired Outcome

The City Engineer should resolve the right-of-way issues including the street's cross section prior to a design review approval. The resolution shall be completed to the satisfaction of all abutting property owners to the affected street.

2) No findings were made as to why the proposed design on SE 10<sup>th</sup> and Taylor was consistent with Comprehensive Plan Goal 10 Plan Review and Administration; Policy 10.4 Comprehensive Plan Map; (20) Central Employment: "Residential uses are allowed but should be compatible with the surrounding industrial development."

#### Desired Outcome

The Design Commission should make specific findings as to how the design does not adversely impact the industrial activities on abutting industrial sanctuary land. These findings should be similar to the findings of a City Council ordinance's financial impact and history of public involvement required prior to City Council action.

pg 2

Walhood, Mark

supplemental statement on CEIC  
appeal filing for W14-12590802MAD

From: Debbie Kitchin <dkitchin@interworksllc.com>  
Sent: Monday, September 08, 2014 11:10 AM  
To: Walhood, Mark  
Subject: FW: Killian appeal

(see highlights)

Thanks!

Debbie Kitchin  
InterWorks, LLC  
Commercial Tenant Improvement and Renovation  
Earth-Friendly Remodeler  
503-233-3500  
971-563-0208 cell  
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[www.facebook.com/InterWorksPortland](http://www.facebook.com/InterWorksPortland)  
[dkitchin@interworksllc.com](mailto:dkitchin@interworksllc.com)

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From: Peter Fry <pfineyry@aol.com>  
Sent: Saturday, September 06, 2014 12:02 PM  
To: Debbie Kitchin  
Subject: Re: Killian appeal

OK! got it all

We need to take the appeal form where it asks what criteria we are appealingly and add the following:

- 1) Central City Fundamental Design Guidelines
- 2) Central Eastside District Design Guidelines
- 3) 33.825.0040 A-B Modification Approval Criteria
- 4) 33.805.040 Adjustment Approval Criteria

-----Original Message-----

From: Debbie Kitchin <dkitchin@interworksllc.com>  
To: Peter Fry <pfineyry@aol.com>  
Sent: Thu, Sep 4, 2014 6:23 pm  
Subject: FW: Killian appeal

Here you go. Also I may be forwarding an additional item to you.

Debbie Kitchin  
InterWorks, LLC  
Commercial Tenant Improvement and Renovation  
Earth Friendly Remodeler  
503-233-3500  
971-563-0208 cell

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

**1. SUBMISSION OF TESTIMONY**

- a. Testimony may be submitted in writing to the Council Clerk, 1221 SW Fourth Avenue, Room 140, 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 823-4085 (TDD: 823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.**