



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**

FROM CONCEPT TO CONSTRUCTION

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**NOTICE OF A PUBLIC HEARING BEFORE  
THE CITY COUNCIL ON AN APPEAL OF THE  
PORTLAND DESIGN COMMISSION**

**CASE FILE:** LU 14-117884 DZM (Block 37 – South Waterfront)  
**WHEN:** Wednesday, October 22, 2014, 2:00 PM  
**WHERE:** COUNCIL CHAMBERS, 1221 SW FOURTH AVENUE

**Date:** September 22, 2014  
**To:** Interested Person  
**From:** Staci Monroe, Land User Services, 503-823-0624

A public hearing will be held to consider an appeal of the Design Commission's decision to approve a 6-story, mixed-use building with 270 residential units, 8,359 SF of retail area and 225 parking spaces at 3700 SW River Parkway. The Design Commission decision of approval with conditions has been appealed by Jim Gardner. At the hearing City Council will consider the appeal. You are invited to testify at the hearing.

This will be an Evidentiary hearing, one in which new evidence can be submitted to the City Council. For a general explanation of the City Council hearing process please refer to the last page of this notice.

**GENERAL INFORMATION**

**Appellant:** Jim Gardner | 2930 SW 2<sup>nd</sup> Avenue | Portland, OR 97201

**Applicant:** Katherine Schultz | GBD Architects | 1120 NW Couch Street, Suite 300  
Portland, OR 97209

**Owner:** MUI 37 Holdings LLC | 1411 4th Avenue, Suite 500 | Seattle, WA 98101

**Developer:** Dayna Dealy | Mack Urban Development | 1411 Fourth Ave Suite 500 |  
Seattle, WA 98101

**Site Address:** 3700 SW RIVER PARKWAY

**Legal Description:** LOT 12, WATERFRONT SOUTH NO 2; LOT 13, WATERFRONT SOUTH  
NO 2

**Tax Account No.:** R882450650, R882450700, R882450650, R882450650, R882450700  
**State ID No.:** 1S1E10DB 00206, 1S1E10DB 00207, 1S1E10DB 00206, 1S1E10DB  
00206, 1S1E10DB 00207

**Quarter Section:** 3430

**Neighborhood:** South Portland NA., contact Jim Gardner at 503-227-2096.

**Business District:** South Portland Business Association, contact Kevin Countryman at 503-  
750-2984.

**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

**Plan District:** Central City - South Waterfront

**Zoning:** CXd, g – Central Commercial zone with Design and Greenway overlays  
**Case Type:** DZM – Design Review with Modifications  
**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 6-story, mixed-use building on Block 37 in the South Waterfront Sub District of the Central City Plan District. The building would contain 270 residential units on the upper floors and walk-up units on the north and south ground levels. Approximately 8,359 SF of retail is proposed along the western portion and northeast corner of the building. Parking for 225 vehicles would be located in two levels, one underground, with access off of SW Gaines. Two loading spaces will be provided in the parking garage and in a bay on the south façade along SW Lane accessed from SW River Parkway. A total of 415 long-term bike parking spaces would be located within common rooms on each floor and some within the individual units. A total of 16 short-term spaces would be provided within the building’s ground level setback along SW Gaines and SW River Parkway. Outdoor amenity areas are proposed within recessed balconies on all facades, 2<sup>nd</sup> level central courtyard and in terraced decks along the building’s eastern edge. The project includes improvements to approximately half of SW Lane, which is designated as a greenway access connection and extends 30’ onto the southern portion of the property. Landscaping is also proposed in the greenway between the building and the western edge of the future greenway trail. Ground level building materials consist of black aluminum storefronts, board form concrete, dark gray brick and metal panel. Upper levels are primarily white stucco, areas of dark gray brick, metal panels in three colors and black vinyl windows.

The following Modifications are requested:

1. For the upper floors of the building to project 3’-6” into the required 30’ building setback from the centerline of Lane accessway (PZC Section 33.510.252.B).
2. Provide 26 tandem parking spaces without an attendant or having to move another vehicle (PZC Section 33.266.130.F.1).

*Since the original hearing on May 15<sup>th</sup>, changes in the design have occurred that no longer require the height modification along Gaines that was originally proposed. Additional changes to the design have been addressed within the findings.*

New development in Design overlay zones are required to be approved through Design Review per Portland Zoning Code Section 33.420.041.A.

**Relevant Approval Criteria:**

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

- Central City Fundamental Design Guidelines
- South Waterfront Design Guidelines
- South Waterfront Greenway Design Guidelines
- Modification Considered Through Design Review – Section 33.825.040

**REVIEW BODY DECISION**

It is the decision of the Design Commission to approve Design Review for a 6-story, mixed-use building with 270 residential units, 8,359 SF of retail area and 225 parking spaces on Block 37 in the South Waterfront Sub District of the Central City Plan District.

Approval of the following Modification requests:

1. For the upper floors of the building to project 3’-6” into the required 30’ building setback from the centerline of Lane accessway (PZC Section 33.510.252.B).
1. Provide 26 tandem parking spaces without an attendant or having to move another vehicle (PZC Section 33.266.130.F.1).

Approvals per Exhibits C.1-C-50, signed, stamped, and dated August 21, 2014, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (D-H) 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 14-117884 DZM." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. A column of 5' deep inset balconies that extends from the 2nd to the 6th floor shall be added to the west facade that matches the proportions and design of the balconies on the north and south facades.
- C. The lid covers to the underground vault in SW Lane shall match the surrounding paving treatment, as specified in the South Waterfront street plan or, at minimum, be painted to match the colors of the surrounding pavers.
- D. The applicant shall work with Staff on an alternate design solution for the non-removable bollards proposed to protect the underground vaults in the Lane accessway from vehicle traffic. If the solution requires a Type 2 Design Review, the Design Review approval must be final prior to issuance of main building permit.
- E. Cedar wood shall be used in place of Resysta for the balcony and canopy soffits.
- F. Where the horizontal metal accent panel (red) occurs at a corner, a continuous piece of metal shall be used at the return to the window, rather than individual horizontal panels.
- G. The stucco joints shall be minimized along the top and bottom horizontals of the facades.
- H. Within SW Lane, a furnishing zone shall be delineated along the north side of the walkway, out of the through pedestrian zone, that includes 4 more benches, 4 bike stalls, and lights. The furnishing zone shall be at the same grade as the walkway and include pavers that match those in SW Lane.

Decision Rendered: August 21, 2014

### **APPEAL**

The Design Commission decision of approval with conditions has been appealed by Jim Gardner. According to the appellants' statement, the appeal of the Design Commission decision is based on arguments that:

*The decision erroneously grants a Modification to PZC Section 33.510.252.B. The criteria for the Modification are not met because the resulting development does not better meet the applicable design guideline or purpose of the standard. The code standard requires buildings to be set back 30' from the centerline of Lane Street, a designated public accessway. The proposed building meets the standard on the 1<sup>st</sup> floor, but the 2<sup>nd</sup> through 6<sup>th</sup> floors intrude 3'-6" into the required setback. Findings written by Design Commission staff omit two of the stated purposes of the setback requirement: to provide a visual connection to the Greenway and to provide a transition from the natural Greenway to the urban development. All of the other, admittedly positive, features of the design could still be accomplished if the building were required to meet the setback required by the code.*

**Review of the case file:** The Design Commission decision and all evidence on this case are now available for review at the Bureau of Development Services, 1900 SW 4<sup>th</sup> Avenue, # 5000, Portland OR 97201. Copies of the information in the file can be obtained for a fee equal to the City's cost for providing those copies. I can provide some of the information over the phone.

**We are seeking your comments on this proposal.** The hearing will be held before the City Council. To comment, you may write a letter in advance, or testify at the hearing. In your comments, you should address the approval criteria, as stated above. Please refer to the file number when seeking information or submitting testimony. Written comments **must be received by the end of the hearing** and should include the case file number and the name and address of the submitter. It must be given to the Council Clerk, in person, or mailed to 1221 SW Fourth Avenue, Room 140, Portland, OR 97204. A description of the City Council Hearing process is attached.

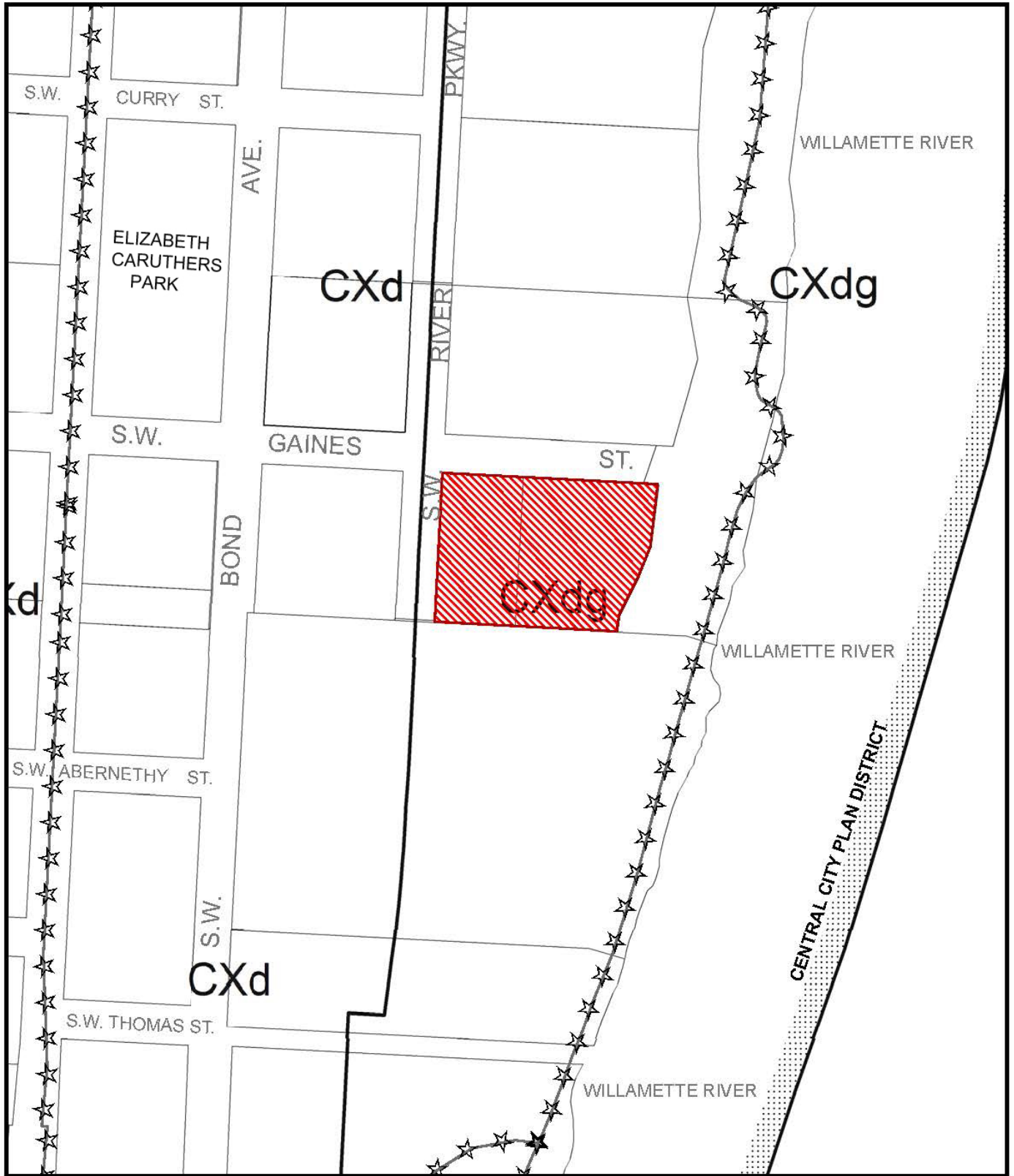
If you choose to provide testimony by electronic mail, please direct it to the Council Clerk [[karla.Moore-Love@portlandoregon.gov](mailto:karla.Moore-Love@portlandoregon.gov)]. Due to legal and practical reasons, City Council members cannot accept electronic mail on cases under consideration by the Council. Any electronic mail on this matter must be received no less than one hour prior to the time and date of the scheduled public hearing. The Council Clerk will ensure that all City Council members receive copies of your communication.

City Council's decision is final. Any further appeal must be filed with the Oregon Land Use Board of Appeals (LUBA). Failure to raise an issue in a hearing, in person or by letter, by the close of the record or at the final hearing on the case or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to LUBA on that issue. Also, if you do not provide enough detailed information to the City Council, they may not be able to respond to the issue you are trying to raise. For more information, call the Auditor's Office at (503) 823-4086.

**If you have a disability and need accommodations, please call 503-823-4085 (TDD: 503-823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.**

Attachments

1. Zoning Map
2. Site plan
3. Elevations
4. Appeal Statement
5. City Council Appeal Process



# ZONING



Site



Recreational Trail



NORTH

This site lies within the:  
**CENTRAL CITY PLAN DISTRICT**  
**SOUTH WATERRONT SUB DISTRICT**

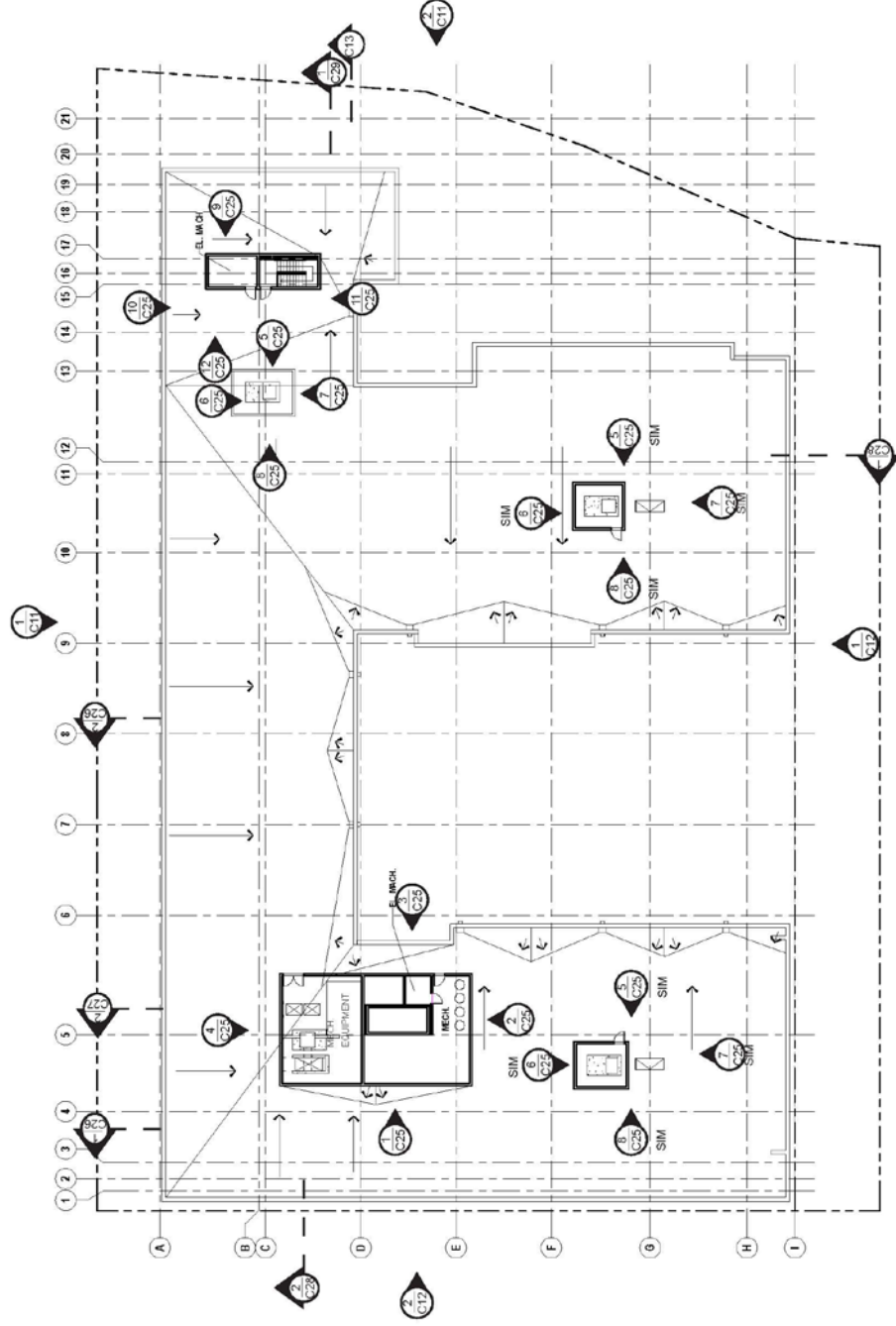
File No. LU 14-117884 DZM

1/4 Section 3430

Scale 1 inch = 200 feet

State\_Id 1S1E10DB 207

Exhibit B (Feb 20, 2014)



# ROOF PLAN



1 NORTH ELEVATION



2 EAST ELEVATION



**BUILDING ELEVATIONS**



1 SOUTH ELEVATION



2 WEST ELEVATION



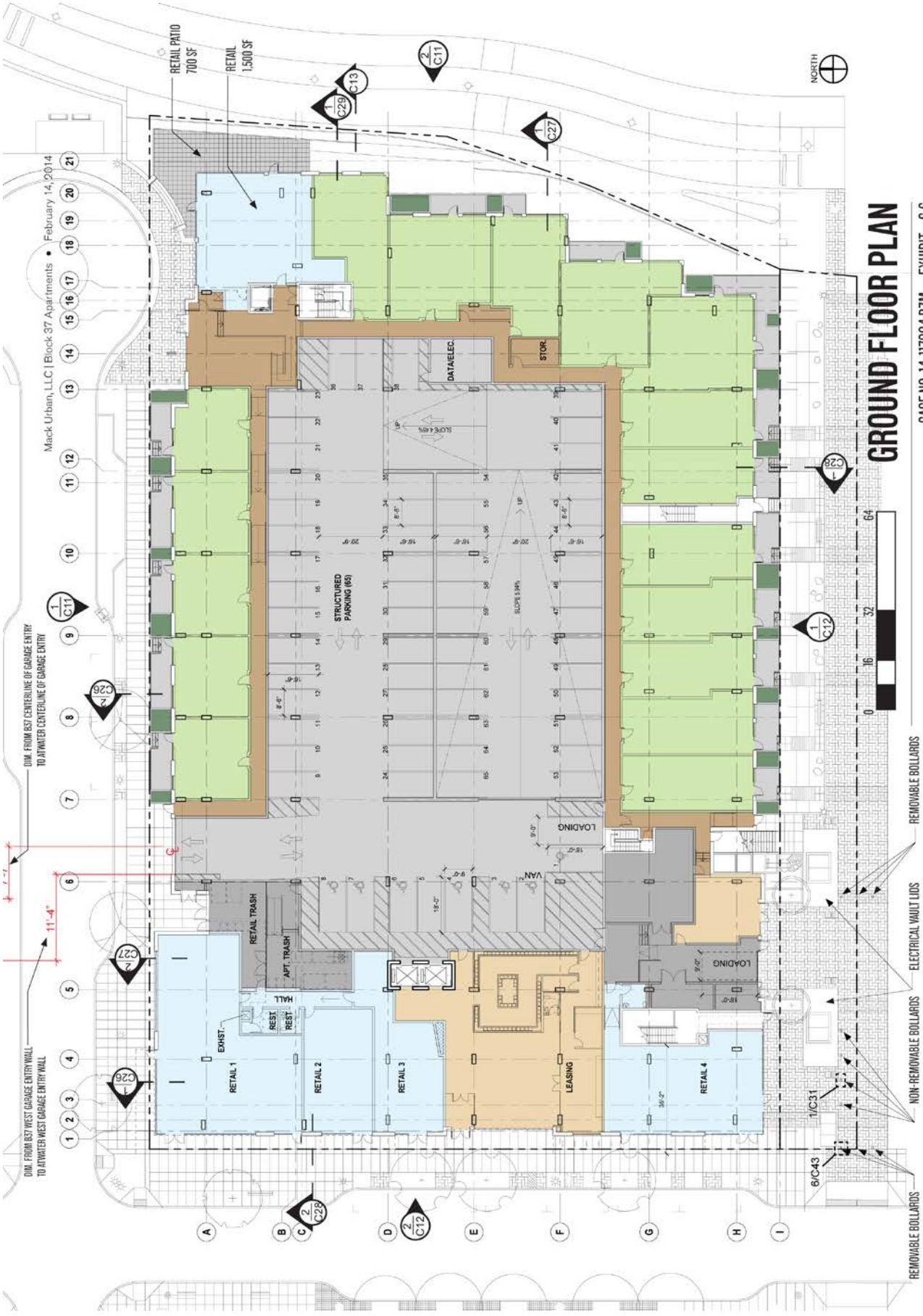
**BUILDING ELEVATIONS**





# OVERALL SITE PLAN

CASE NO. 14-117884 DZM EXHIBIT C.37



# GROUND FLOOR PLAN

CASE NO. 14-117884 DZM EXHIBIT C-6

Mack Urban, LLC | Block 37 Apartments • February 14, 2014

DIM. FROM WEST GARAGE ENTRY WALL TO CENTERLINE OF GARAGE ENTRY

11'-4"

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21

1/8" SLOPE

1/4" SLOPE

REMOVABLE BOLLARDS

NON-REMOVABLE BOLLARDS

ELECTRICAL VAULT LIDS

REMOVABLE BOLLARDS



# City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 • 503-823-7526 • www.portlandonline.com/bds



## Type III Decision Appeal Form

LU Number: 14-117884 DZM

### FOR INTAKE, STAFF USE ONLY

Date/Time Received 9.15.14 7:56 pm

Action Attached

Received By ROBERTS

Fee Amount \$ 5,000

Appeal Deadline Date 9.16.14 4:30pm

[N] Fee Waived

Entered in Appeal Log

Bill # 3667015

Notice to Auditor

[N] Unincorporated MC

Notice to Dev. Review

**APPLICANT: Complete all sections below that apply to the proposal. Please print legibly.**

**The appeal must be filed by the deadline listed in the Decision**

Development Site Address or Location 3700 SW River Parkway, Portland, OR

Date 9/15/14 Land Use Number 14-117884 DZM

Appellant's Name Jim Gardner

Street Address 2930 SW 2nd Ave

City Portland State OR Zip Code 97201

Day Phone 503-227-2096 FAX none email jimdonna@msn.com

Appellant's Interest in the case (applicant, neighbor, etc.) NA Land Use Chair

**Appellant's Statement** Please describe how the proposal meets or does not meet approval criteria, or how the City erred procedurally. The statement must address specific approval criteria or procedures and include the appropriate code citation(s). The decision erroneously grants a modification to PZC 33.510.252.B. The criteria for modification (PZC 33.825.040) are not met, because the resulting development does not better meet the applicable design guideline or purpose of the standard. The code standard requires buildings be set back 30 feet from the centerline of Lane St, a designated public accessway. The proposed building meets the standard on the 1st floor, but the 2nd through 6th floors intrude 3-1/2 feet into the required setback. Findings written by Design Commission staff omit two of the stated purposes of the setback requirement: to provide a visual connection to the Greenway, and to provide a transition from the natural Greenway to the urban development. All of the other, admittedly positive, features of the design could still be accomplished if the building were required to meet the setback required by the code standard.

Appellant's Signature Jim Gardner

To file this appeal, take the following to the Development Services Center

- 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
  - 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. 14-117884 DZM  
EXHIBIT 1-1

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.

The appeal must be filed by 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 a.m. and 3:00 p.m. on Tuesday through Friday. On Mondays, and between 3:00 - 4:30 p.m. on Tuesday through Friday, the form(s) must be submitted at the Reception Desk on the 5th Floor.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

**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.**