



City of Portland, Oregon - Bureau of Development Services

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Type II and IIX Decision Appeal Form

LU Number: 14-198444

FOR INTAKE, STAFF USE ONLY

Date/Time Received 2/11/15

☒ Action Attached

Received By [Signature]

Fee Amount 250

Appeal Deadline Date 2/17/15

☒ Fee Waived

☐ Entered in Appeal Log

Bill # 3726960

☐ Notice to Auditor

☒ Unincorporated MC

☐ Notice to Dev. Review

Neighborhood Kenton

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 8408 N. Brandon Ave

Date February 11, 2015

Land Use Number LU 14-198444 DZ

Appellant's Name River City Kenton, LLC

Street Address 8408 N. Brandon Ave, #201

City Portland

State OR

Zip Code 97217

Day Phone 503 257-6050 FAX 503 257-9729 email rivercityoffice@integrall.com

Appellant's Interest in the case (applicant, neighbor, etc.) Applicant/owner

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 specific Zoning Code citations(s) must be included in your statement.

Applicant appeals four conditions of Approval
See attached Appellants Statement to be included herein.

Appellant's Signature [Signature]

CASE NO. 14-198444

EXHIBIT H.1

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

- ☒ This completed appeal form
- ☒ An appeal fee as follows:
 - ☒ \$250, payable to City of Portland (no appeal fee is charged when appeal is filed by ONI recognized organizations for property within organization's boundaries); or
 - ☐ Fee waiver for low income individual approved (attach letter from Director) (not available for MC cases); or
 - ☐ Fee waiver for Unincorporated Multnomah County recognized organizations is signed and attached.

A public hearing will be set before a review body. The land use review applicant and everyone who received the notice of the decision 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.

Appellants Statement

Land Use Number: LU 14-198444 DZ
Site Address: 8408 N. Brandon Ave

1. Applicant is appealing the four conditions for approval B., C., D. and E.

In the original Design Review Approval dated February 20, 2007 City Staff determined that that this project meets all Community Design Guidelines. The Staff today also found that this proposal meets all of the Guidelines, specifically concluding that it:

“is consistent with the desired characteristics and traditions of the Kenton neighborhood”;

“will continue the historic development pattern of commercial structures”; and that it “integrates architectural details found on surround buildings”.

Nonetheless City Staff places 4 new conditions upon the third phase of this project. None of these conditions appear in the Community Design Guidelines, and some are so problematic that they represent a breach to best practice detailing practice. Others amount to nothing more than architectural design opinion that, in the Applicant’s view, dilute the design and creates visual discordance between this last phase of the overall project and the previous two phases. It is not overstating the matter to say the conditions are contrary to the Community Design Guidelines. These conditions are not consistent with light frame buildings in this neighborhood.

Following are responses to each of the Conditions (the alphabetic designations are the City’s):

Condition B: Staff is requiring that the project be clad in Hardie Artisan lap siding (or equivalent) in lieu of the Hardie Cedarmill lap siding. In conversations, Staff has described Cedarmill as an inferior product prone to unspecified problems. The Hardie Company is unaware of these deficiencies and cites decades of performance in defense of that product line. The main advantage, then, of using Hardie Artisan lap siding would be to achieve a stronger shadow line which will distinguish it from the previous 2 phases of this development. In the applicants view, this advantage is actually a very strong liability. Our goal is to build a project that is consistent visually throughout. This incremental attempt to “improve” the last phase of the project will have the opposite effect. Staff also has required that the building be clad consistently with 6” exposure lap siding. The current design uses different lap exposures to individually delineate building massing and to stratify the building skin to articulate the intentionally tall building elements. Limiting our efforts in this way, the Staff is simplifying the building skin such that our original design vision is diffused. Finally the cost of the building skin will be doubled if we are required to use Hardie Artisan. This is entirely counter to the Applicant’s desire to provide affordable housing for this neighborhood.

Condition C: Staff is requiring all windows and doors to be recessed 3 inches. The suggested method of accomplishing this is to insert a 2x4 frame inside the 2x6 framed rough openings and

attach the windows and doors to that inserted 2x4 frame. This procedure is too problematic to make any sense and is in direct conflict to architectural best practices for light framed buildings. Installing windows and doors in this manner will require either reducing the size of the doors and windows or to frame rough openings larger which will cause problems in most of the shear walls. These buildings have been designed with so much glass there is not always a lot of wall left for shear and hold-downs.

Water sealing these inset windows and inset frames will be very difficult if not impossible. This project is designed with not just large windows but large groupings of multiple windows. This condition imposes additional costs and problems with each window and thus compromises the integrity of the structure by making it more susceptible to water intrusion and dry rot. The recessed detail may be appropriate for masonry or concrete buildings, but simply is not best practice for a low rise wood frame apartment building. This whole project was thoughtfully designed with large flush window massing. To arbitrarily change the design thought now, into the last phase of this otherwise cohesive project, is something less than good design.

Condition D.: Staff wants the cultured stone replaced with brick. This project was originally designed to accomplish certain aesthetic features. The overriding intent was to make the buildings appear to be groupings of different buildings having "grownup" on the block over years and thus avoid imposing large monoliths upon this historic neighborhood. The cultured stone aids in this process. It is used on the entrance into the building courtyard to make it prominent, interesting and pedestrian accessible. Guideline D2. The style of cultured stone used mimics other concrete block used in the neighborhood 100 years ago.

Condition E.: Staff wants to replace 2 sliding windows in the courtyard with fixed or single hung windows. These windows can only be seen from inside the buildings courtyard and not from any part of the exterior. They are both 3-0 x 3-0 windows and are in the same wall on the second floor courtyard. One of these windows sits over a kitchen counter and sink and it is felt that a slider is easier to operate than a single hung window when one has to reach over/across a counter to do so. The other slider is used so the two windows on that wall match each other.

There are no Community Design Guidelines which require or even asks for these changes of siding, recessing windows or replacing the cultured stone with brick. Arguably all of these conditions are deviations from the Design Guidelines. These conditions are very likely to damage the envelop integrity of this project. Furthermore, the additional cost associated with the required material changes will add a financial burden without attendant benefit. These conditions should not stand.

2. This project has already received approval and these 4 conditions are outside the scope of this Design Review.

As explained in the Notice, this project was previously approved in a Design Review Approval dated February 20, 2007. It was again approved with limited changes on May 22, 2012 when the second of the three buildings was permitted for construction. Construction of

the first building was completed in October 2008 and the second building was completed in March 2014.

Kenton Commons was originally proposed and approved as a multi-phase project. All phases were designed in 2007 and approved at that time to work together. All three buildings are designed to all work together as a single project. Applicant was specifically advised in 2006 to obtain Design Review of the entire project and not just the building we were building at that time so as to obtain approval of the entire project so we would know it was all approved when we later built the remaining phases. When it drafted its code the City took multi-phase projects into consideration when in the section of the Code which limits the life of Design Review Approvals.

City Code 33.730.130 does require another Design Review. However, paragraph 4. of that section states:

“Multiple developments. Where a site has received approval for multiple developments, and a City permit is not issued for all development within 3 years of the date of the final decision, **the approval does not expire** but no additional development may occur without another review. **All conditions of approval continue to apply.** Examples of multiple developments include phased development and **multi-building proposals.**” (Emphasis added).

This project has already been designed and redesigned to meet the Planning Staff’s approval and 2 of the 3 buildings have already been built as approved. The Staff interprets this paragraph of the Code to only apply to those parts of the multi-building project that is already built. Such an interpretation is contrary to the plain meaning of the language used in the Code and eliminates approvals for any multi-phase or multi building projects not permitted within 3 years. This interpretation eliminates pre-planning any such project. The City knew that we needed a provision to allow multi-phase projects to be planned and approved as a whole and thus added the above paragraph to the Code.

If applicant had been required to use more expensive siding and to recess all windows this project would have been designed significantly different. Since the problems with recessing windows are multiplied by each window added to the building the number of windows would have been reduced. The size of the windows and doors would have been determined taking into consideration the additional framing required. Knowing that the cost of the siding would double other types of finish could have been considered. Now, the Staff is trying to make changes that just do not fit the building.