



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: 17-153413 - HRMAD

FOR INTAKE, STAFF USE ONLY

Date/Time Received 8/1/17 @ 2:26pm

Action Attached

Received By [Signature]

Fee Amount \$5,000

Appeal Deadline Date 8/1/17 @ 4:30pm

[Y] Fee Waived

Entered in Appeal Log

Bill # 4165858

Notice to Auditor

[Y] Unincorporated MC

Notice to Dev. Review

APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS 1120 SW 5th Ave. DEADLINE OF APPEAL 8/1/17

Name Erica Ceder - DLR Group

Address 421 SW 6th Ave, Suite 1212 City Portland State/Zip Code OR 97204

Day Phone 503-220-1338 Email eceder@dlrgroup.com Fax 503-274-0313

Interest in proposal (applicant, neighbor, etc.) Applicant

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:

Central City Fundamental Design Guidelines - C11- Integrate Roofs and Use Rooftops. The Landmarks Commission approved the proposal with a condition to relocate two rooftop air handlers, currently shown on the west side of the roof, to the interior of the building or reduce them in size by 50%. The applicant would like to appeal this condition as we believe we meet the guideline. See attached memo for description of appeal.

Appellant's Signature [Signature]

FILE THE APPEAL - Submit the following:

CASE NO. 17-153413 HRMAD
EXHIBIT H-1

- 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 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.

Memo

Date August 1, 2017

Subject **Portland Building Reconstruction # LU 17-153413 HRMAD
Type III Decision Appeal**

Appeal Request:

The Historic Landmarks Commission approved the Portland Building Reconstruction Project (LU 17-153413 HRMAD) with conditions designated 'A' through 'I'. The applicant is able to meet all of the conditions as stated with the exception of condition 'G' which reads:

"G. The proposed air handling units shall either be located at the interior of the building, or be significantly (at least 50%) reduced in scale (and not increased in number)"

The applicant is appealing condition 'G' and asks that it be removed from the approval decision.

As described to the Landmarks Commission in our June 26th hearing, there is no viable technical solution that meets the condition stated without creating significant negative impacts to the project. The project team has done extensive studies regarding type and location of mechanical equipment that will deliver optimum performance and air quality while minimizing visual impact. The design shown in the proposal reflects this.

Locating the air handling equipment in the interior of the building per the condition is not feasible. These units need to draw fresh air into the building and the best source for high quality outside air is at the roof level. Drawing air from lower elevations would result in reduced air quality for the building occupants and would require large louvers to be placed somewhere within the historic facade. The addition of these louvers would disrupt the historic design and potentially reduce valuable existing window area. Drawing air from the roof to air handlers located in the basement would require significant structural changes in order to accommodate new vertical shafts, would significantly reduce the usable square footage in the building, and would result in a significant drop in the efficiency and life span of the air handling equipment. This scenario would also add significant cost to the project.

Reducing the size of the equipment by 50% is also not technically feasible. The Portland Building is a 15 story building that is intended to house over 1,700 employees. Reducing the equipment size would result in insufficient air distribution for the building occupants and would not meet code.

As stated in our initial hearing, considerable work has been done to ensure a solution that balances minimizing visual impact with the needs of the building occupants and the City's sustainability goals.

Approval Criteria:

The approval criteria referenced as the basis of the approval condition added by the Landmarks Commission is from the Central City Fundamental Design Guidelines, item C11 Integrate Roofs and Use Rooftops. Responses to the individual sections of that guideline are addressed as follows:

- ***Integrate roof function, shape, surface materials, and colors with the building's overall design concept.***
 - While the staff report notes the roof was designed as a “temple”, it is acknowledged that this design vision was never realized. The roof is, and has always been, primarily occupied by the mechanical penthouse. The proposal maintains this existing function. Equipment is rectilinear and symmetrically placed in response to the building's overall design concept. The air handling units are covered with a housing that provides a clean, uncluttered appearance and are proposed to be a color that is complimentary to the existing penthouse structure.

- ***Size and place rooftop mechanical equipment, penthouses, other components, and related screening elements to enhance views of the Central City's skyline, as well as views from other buildings or vantage points.***
 - *Size:* The rooftop mechanical equipment has been sized to provide code required levels of air supply to the building. As such, it is designed to provide a healthy and comfortable environment for building occupants and to meet the City's sustainability policies. A condition to reduce equipment in scale by 50% is arbitrary and is not supported by the C11 guideline.
 - *Placement:* As shown in our submitted roof diagrams, the mechanical units are organized and symmetrical. Equipment is located as far away from the roof edges as possible to minimize visibility from the sidewalk level.
 - *Views:* The applicant provided diagrams showing sightlines from significant vantage points including views from the adjacent sidewalks and across adjacent Chapman Square park. These diagrams show that the proposed equipment is not visible from any of these vantage points. While staff and the commission expressed concerns about the appearance of the proposed air handlers “as viewed from higher elevations,” we believe that the clean and uncluttered appearance of the proposed units will not detract visually from the existing mechanical penthouse.

- ***Develop rooftop terraces, gardens, and associated landscaped areas to be effective storm water management tools.***
 - The proposal has been designed to allow the maximum amount of the existing eco-roof to remain in place and function as one of the building's primary storm water management tools.

Per the analysis above, the applicant believes that the proposed mechanical equipment meets the intent of the C11 guideline and requests that Condition 'G' be removed from the approval.