

September 10, 2020

VIA EMAIL: CCTestimony@portlandoregon.gov

Portland City Council  
1221 SW 4th Avenue  
Portland, Oregon 97204

Re: Appeal of Alamo Manhattan Blocks in South Waterfront  
LU 20-102914 DZM GW AD; PC # 19-22572

Dear Honorable Mayor and City Council:

This firm represents Yvonne Meekcoms, Leonard Gionet, and Mary Henry de Tesson, long-time residents of the South Waterfront, who have significant concerns that the approved 4-block Alamo Manhattan development fails to satisfy the exacting South Waterfront development and greenway standards. Appellants and other residents who made early and significant investment into the sensitive design tradition established in the South Waterfront had a right to expect that new construction would carry forward the same tradition. To ensure that result, these expectations were memorialized in special area-specific South Waterfront Design Guidelines, the South Waterfront Greenway Design Guidelines and urban renewal infrastructure commitments. The Design Commission's approval of the Alamo Manhattan project disregards those promises. In this approval, the Design Commission interpreted the guidelines differently, not only in a way that adversely affects the appellants but also most of the residents, largely seniors, who call the towers within the South Waterfront home.

As an introduction, it is important to point out what this appeal is not about. This appeal is not about halting development on these four blocks and seeing the land left vacant. These blocks can and should be developed with mixed-use development that includes a robust inclusionary housing component. The appeal is not about obfuscating efforts at increased housing supply or limiting the provision of affordable housing in any way. None of the solutions identified in this appeal would cut off or restrict the level of inclusionary housing currently proposed. Rather, this appeal is about increasing river views and access for a greater number of residents, including the low income units, instead of limiting it to the market rate units. This appeal is also not about protecting the pristine, unobstructed river views that many existing tower residents currently enjoy in perpetuity. The appellants fully acknowledge that they hold no non-possessionary right to their existing views. Rather, it is the design and greenway guidelines that serve as a guarantee that the character of South Waterfront – access to the river both visually and physically, coupled

with sculpted tower design maximizing these views – remain for the benefit of appellants, the existing and future residents of the South Waterfront, as well as for the public. This land use approval churns those expectations asunder, failing to honor the obligations set forth in the guidelines – the contract between existing residents and future developers ensuring the appropriate balance between public benefit and private return.

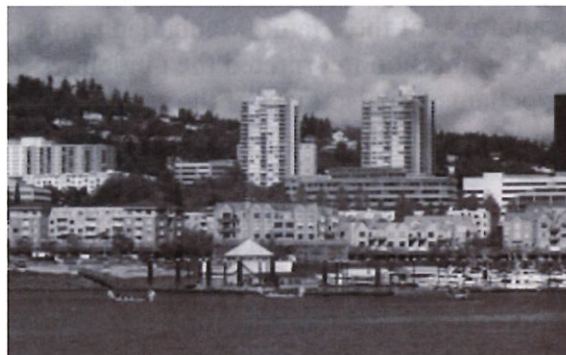
### **Building Heights Must Graduate Downward as they Move Toward the River**

The character of the South Waterfront is protected through four area specific design guidelines. One of those guidelines, arguably the most specific, Guideline D2 states, in relevant part: “Graduate building heights from the western boundary down to the waterfront.” The Background for this Guideline explains:

“This part of the Central City possesses unique opportunities for visual and physical connections to the water not available elsewhere. Development in this area should respond to the formality and openness of Tom McCall Waterfront Park, as well as the urban scale, form, and texture of the south downtown area.”

Buildings are to step down in height from the next, to the next as the built environment moves closer to the river. The Guidelines illustrates this concept as follows:

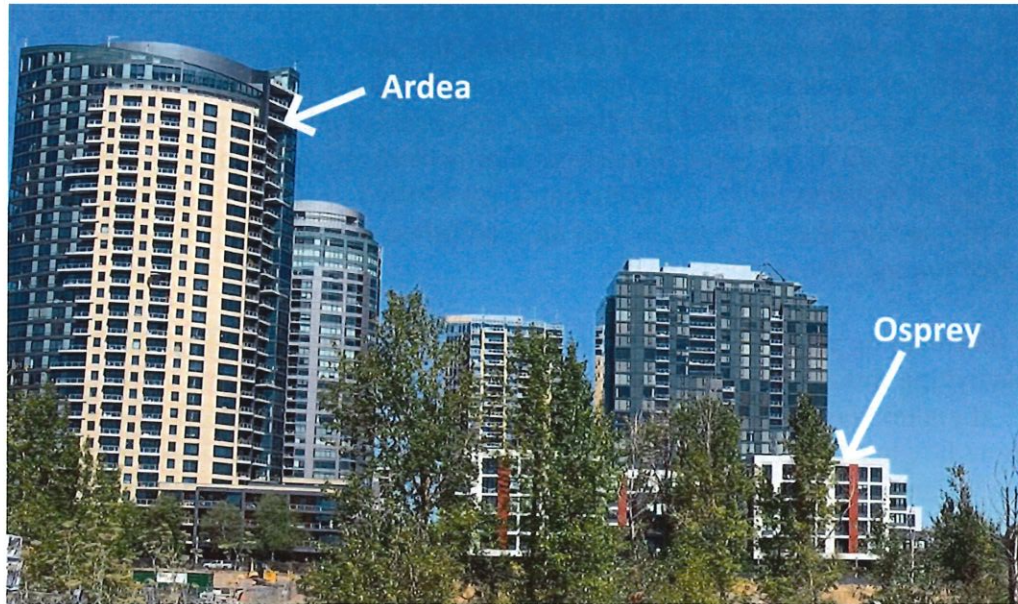
1. Graduating building heights from the western boundary to the waterfront. This view of the RiverPlace community, in the foreground, was captured from the east side of the Willamette River and shows how the Central City buildings step down in height toward the Willamette River.



By using this stepped-down gradation in building heights, the Design Guidelines ensure that the visual and physical connection to the water – the singular distinguishing feature of the South Waterfront – is maximized. It is this openness and vast visual access to the river (as well as the sky) that makes the South Waterfront a desirable place to live. A good example of this gradation



exists directly to the north of the subject property where The Osprey townhouses, a five-story structure abuts the river and The Ardea, a multi-story tower, sits further behind.



Rather than following this established pattern, this applicant elected to turn this obligation on its head. Instead of graduating its development down toward the river, it elected to graduate the building heights upward as the buildings move closer to the river. Massive, 250' towers abut the river on Blocks 41 and 44 blocking the shorter mid-rise 74' buildings on Blocks 42 and 45 behind. This is the opposite of the pattern created to the north. These mid-rise buildings contain the affordable housing units – depriving those on the interior blocks of any visual access to the river. This is not what Design Guideline D2 and, as discussed in greater detail below, Guideline C1 require.

The Design Commission's rationale is based on a creative, yet contextually unsupported interpretation of Design Guideline D2 that, if allowed, will not result in graduated building heights toward the river or maximized visual access to the water. The reasons cited by the Design Commission are threefold. First, the Design Commission found that the step down is "achieved in the heights allowed through the Zoning Code" and as a result, building within the graduated maximum building heights within the base effectively satisfies this guideline. The shortcoming with this interpretation is that it allows the zoning maximum to serve as a substitute for guideline compliance undercutting the need for the guideline in the first instance. In other words, this guideline-mandated graduation obligation becomes superfluous because compliance with the zoning provides all the gradation in height necessary. It is unlikely that the City intended for one out of only four special South Waterfront Fundamental Design Guidelines to be entirely redundant and reviewing bodies are loathe to find such interpretations reasonable when there is no other language supporting that intent.



Further, requiring the mapped zoning heights to control this analysis eliminates the discretionary authority given to the Design Commission to “recognize special design values of an area” as set forth in the purpose statements of ZC 33.825.010, ensure that design enhances the “context” of the existing buildings, and ensure compliance with the design guidelines, including reducing height and FAR as may be necessary. In fact, during the early Design Advice hearings, the Design Commission expressed dismay that the proposal did not include buildings that graduated to the river. No reason is identified for changing this established pattern and practice for applying Guideline D2 in the South Waterfront, nor is there any comparative contextual analysis offered to support this approach. An applicant is not entitled to any building height so long as it complies with the base zoning in the face of an established practice coupled with a design guideline that requires the opposite result.

A further shortcoming with such an approach is that it is belied by further Design Commission findings analyzing this same guideline which state: “Compliance with this guideline is context driven...” If context is to drive a finding of compliance then, by definition, the maximum base / bonus zoning heights do not establish that limit. Moreover, if context drives compliance, as stated, the Design Commission retained authority to require relocating the towers onto the inland rather than the river blocks in order to achieve compliance with this standard, similar to the development pattern established by the Osprey / Ardea. Contrary to the stated conclusion set forth in the findings, there is no evidence that this context appropriate evaluation of building height, as required by Guideline D2 was accomplished, either at the time that the code was adopted or by the Design Commission as part of this review.

The Design Commission found that this guideline does not “require that every building on each block step down to the next and the next and the next as development moves toward the river.” This conclusion is undercut by the fact that the majority of the residential towers in South Waterfront do not sit on riverfront blocks. Although there is one limited exception – The Atwater Place, it was not developed as part of a larger block development where achieving this degradation in height may have been possible. By contrast, the Alamo Manhattan project is not a single 4-block development. As a result, the Design Commission had a unique opportunity, given the context of the site and the scope of the proposal, to require this stepped down approach that may otherwise be impossible in a block-by-block development. Placing the taller buildings back from the river and shorter buildings riverfront would increase the number of units with river views, gradation would have increased the view of the sky available to those enjoying visual and physical access to the river.

The Design Commission findings go on to state:

While the buildings on the western blocks do not take advantage of the maximum allowed building heights (250’), the building on the eastern blocks steps down from the 250’ allowed bonus height down to a ±45’ podium which is well below the 75’ height limit along the river. Overall the stepping of the building heights on the eastern blocks step down from the west towards the river. P 12.

First, reduced height buildings on the western blocks is not responsive to a guideline that requires that the height reduction be located on the eastern blocks adjacent to the river. Second, although the towers do sit on shorter 4-5 story podiums, the podium step down exists to the north and the south of the tower structure and not “from the western boundary down to the waterfront,” as Guideline D2 requires.

The building heights of the proposed development do not gradually get shorter as the development moves toward the river. D2 requires this gradation and there is precedent for such an approach throughout the District. The purpose of this requirement is to facilitate and maximize existing resident, future resident and visitor visual access to the river. Rather, this development cuts off visual access to everyone except for those lucky few who take up residence in these two new towers. The guidelines require maximizing the connection to the river and not constricting it. Guideline D2 is not satisfied.

### **The Tower Design Does Not Complement the Established Design Context and Does not Protect Existing Views**

Design Guideline A5 calls for enhancing and embellishing the character of the area. Design Guideline C4 requires that new development complement the context of the existing buildings. High-rise development within South Waterfront is not characterized by towers that extend the full length of the property in any direction but rather are typically sculpted and narrow. This refined elegance and sculpted tower design is not just a character-defining design aesthetic for South Waterfront, it offers access to light and air to towers that will be completely blocked by the proposed massive and looming towers.

Guideline C1 requires, in relevant part, “Size and place new buildings to protect existing views and view corridors.” All of the towers in the South Waterfront have been sensitively placed so as not to block the river views from existing development. For example, the John Ross, the Ardea and the Atwater are all strategically located to maximize river views, not only for their future residents, but also existing residents of other towers. By contrast, the Block 41 and 44 towers create high-rise walls extending the full width from SW River Pkwy to the river blocking access to light and air for everyone located in towers to the north and the northwest. This approach is inconsistent with the light, airy and engaging design aesthetic that characterizes towers within the South Waterfront.

The Design Commission findings point out that there is precedent for a bar tower “in the northern end of the district and two blocks to the west.” Bar towers located to the north and west of the District do not have the same view-inhibiting effect, so that they could be permitted without running afoul of Guidelines A5, C4 and C1. Moreover, the established building context, particularly for residential structures to the south, are not bar towers but rather unique sculpted, rounded forms. The benefit of engaging tower forms make the South Waterfront interesting to look at but also allow these more rounded elegant towers to the north to retain some view, with



access to light and air that will be utterly cut-off by the approved bar and L-shaped tower designs. These towers are not interesting to look at either from the ground or from a distance. Simplifying the design with different corner treatments or materials remains woefully inadequate to acknowledge and support the high-quality, rich design aesthetic of South Waterfront. Again, the failure to engage and enhance the design of an area is a fundamental flaw that pervades this project.

Further, even the Design Commission acknowledged that there was no precedence for an L-shaped tower design in the South Waterfront. Yet, this L-shaped design has the same effect, cutting off views and compromising access to light and air to those enjoying the existing views. If a new tower form is going to be allowed, it must be sensitively placed to maximize views such as on the inland Blocks 45 or 42.

The Design Commission findings suggest that the obligation to protect views under Guideline C1 is limited solely to “significant views and view corridors” as set forth in the City’s Scenic Resources Plan. This analysis inserts a qualifying condition that does not appear in the plain language of the controlling guideline. Moreover, the South Waterfront is significant for its connection to the river, as discussed in greater detail above. Guideline A5, C4 and D2 should be interpreted to require maximizing visual access to the river in any event.

During the initial Design Advice proceedings, the Design Commission concluded that existing development had created a view corridor along River Parkway, suggesting that view protection is required in South Waterfront. Preserving existing views to the river is part of what Guideline D2, and by cross-reference C1, are charged with protecting. This is not to say that no interference with existing private views is permitted. Rather, a more reasonable reading of these guidelines, taken together, would focus on the character of the area – elegantly sculpted towers sensitively placed to protect views of the river – and conclude that bar or L-towers that lack contextual support and that utterly cut off existing residents’ visual connection with the River. This defect is further exacerbated by the cramped and restricted Greenway access from this proposal discussed below, as well.

As pointed out by others, these concerns about the blockish nature of the towers, the impacts to existing views, the lack of contextual design support and the need to graduate the design was raised by the Design Commission in a number of the early Design Advice hearings. Yet, these concerns were summarily and without explanation dropped after the applicant withdrew and refiled its application relying on the old zoning regulations. The guidelines did not change under the old code such that the Design Commission had any reason to change its position that existing visual connections to the river were irrelevant. The Design Commission findings fail to justify this changed approach and they fail to explain how these blockish, wall and “L”-shaped tower designs will contribute the character of the South Waterfront.

Again, this applicant has substantial land holdings upon which to organize and allocate its desired density. It could have located the towers on the landward parcels and integrated the



affordable units within the towers offering views to a greater number of residents. Such a move would have protected existing views, as Guideline C1 requires, and still satisfied the applicant's density and development goals. The Design Commission made those preferences known to this applicant very early in this process. Rather than take this advice to heart, revising the core assumptions that would allow for a win-win that included the existing tower neighbors, as well as future affordable housing residents, the applicant chose to move forward with a design that does not complement the existing building context and completely cuts off views of the river.

### **Failure to Protect and Enhance the Qualities of the Greenway**

ZC 33.851.300 requires that all new development will "better enhance the natural, scenic, historical, economic and recreational qualities of the greenway." The Guidelines encourage that development erode away from the riverbank as the project moves south. The Design Commission's approval replaces this obligation by noting the provision of deeper setbacks at the end of each roadway. However, these setbacks are not responsive to guidelines that require that this erosion occur for the full length of the frontage and are insufficient in any event. The provision of a pedestrian and multi-modal trail and restoration of the riverbank as proposed are the very minimum that the design guidelines require and entirely fail to exceed the standard requirements to better enhance the Greenway environment. Again, this failure to demonstrate how the proposed design will "better" provide the Greenway qualities identified requires denial of this application.

Guideline A1-2 requires the "integration of active uses along the river" including the obligation to "expand the public realm and enhance the experience for users." The Design Commission found this guideline satisfied with the addition of a raised patio with benches on the eastern corner of Block 44 and an expanded open space plaza at the end of Abernethy with chase lounges, benches, lighting and distinct pavers along Block 41 that "distinguish this space as a destination along the river for the public." P. 13.



These open spaces will be perceived as private outdoor amenities for building residents rather than public open spaces. Neither of these spaces abut or otherwise spill onto the pedestrian



walkway, as these same amenities are discussed within the Design Guidelines. The only connection from these plaza areas is what the applicant characterizes as a “narrower, non-plaza like connector between the bicycle and pedestrian path.” Providing a slim and discrete connection to a patio that may not be visible from the pedestrian walkway, does not “integrate” the active patio uses with the river. Certainly, the provision of a large patio space with a fountain, benches and lounge chairs away from the primary pedestrian walkway does not “expand the public realm.”

South Waterfront Greenway Guideline 3 requires providing “major amenities” for the public. For example, where seating is offered to enhance pedestrian areas, it must abut the walkway so that it invites the public to sit and watch the trail and beyond. Except for one lone area of “native stone benches,” the benches and lounge chairs proposed here are not adjacent to the walkway, but rather are connected by a constricted sidewalk that gives the appearance that the patio where they are located is private. These enhanced plaza or fenced elevated patios, adjacent to private indoor amenity spaces, appear to be private outdoor spaces rather than open, accessible and inviting major public amenities for use by all families.

Finally, the South Waterfront Greenway Guidelines are replete with references encouraging the provision of physical access to the river. Guideline 3 calls for the provision of “watercraft launches.” Guideline 5 states: “Enhance riverbanks by directing human access.” “Where appropriate integrate public access to the water that is safe and supportive of adjacent riverbank areas.” Specific to the South Reach, the Guidelines talk of providing access onto the existing concrete platform on the south side of the property, “connecting a gangway to a floating dock.” The Design Commission findings acknowledge that the guidelines require this connection but conclude: “Added evergreen tree planting in concert with a guardrail/fence and shifting the pedestrian trail farther from the concrete slab and wall, will direct human access and help to keep pedestrians a safe distance away from these structures.” P 30. This finding is the exact opposite of the river view and access amenities that the Greenway Guidelines contemplate.

In sum, this applicant failed to provide the “major amenities” or other public improvements necessary to enhance and better meet the riverfront guidelines.

### **South Bond Street Extension Must be in Place**

The Design Commission erred in failing to require the completion of S Bond Street in advance of allowing this new construction. S Bond Street has been planned to serve as the secondary critical artery for providing vehicular access into and out of South Waterfront to downtown. A 4-block segment of Bond Street, between the intersections with S Whitaker to S Porter is currently missing, although the cost of these improvements have been funded through urban renewal dollars. Without this connection, vehicular traffic is funneled onto one single-lane road - S Moody Ave - to reach downtown. Moody Ave is already congested and should it be blocked because of a downed power line or protest, the residents of South Waterfront would be trapped. Putting an additional 1,200 units online without first installing this critical second access-point



creates a dangerous condition for these future residents. Therefore, should the Council decide to approve this request, a condition of approval must be added requiring the complete connection of S. Bond Street for vehicular use before construction commences.

**The Design Guidelines are Not Satisfied, this Application Should be Denied**

As illustrated above, the majority of the area-specific South Waterfront design and greenway guidelines are directed in one area – protecting and facilitating enjoyment of the Willamette River. It is the proximity of the river that makes this area unique. From requiring building height reduction and compatible building placement and design, these guidelines are all directed at maximizing the view of the river for the benefit of all South Waterfront residents, businesses, as well as the public. The approved development cuts off those views, depriving existing residents as well as the future low-income residents in the mid-rise building behind, from enjoying the visual connection to the River that the Guidelines require.

The same is true when it comes to the pedestrian realm and the Greenway where the guidelines call for the provision of major public amenities coupled with safe access to the river. Instead this applicant provided elevated, enclosed patios and plazas that are not directly accessible, and perhaps not even visible by the passing public. This approach not only contradicts the plain language of the controlling design guidelines, it represents a sea-change level policy shift turning its back on the goal of furthering livability, accessibility and the natural beauty of the South Waterfront for everyone and instead protecting the river for just a select few.

For all of these reasons, the applicable Design Guidelines are not satisfied. Please deny this request or remand it back to the Design Commission with instructions to interpret the guidelines in a way that expands, rather than limits access to the river.

Very truly yours,



Carrie A. Richter

CAR:kms

cc: Client

