



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

FROM CONCEPT TO CONSTRUCTION

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 www.portlandoregon.gov/bds

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

CASE FILE: LU 14-230014 DZM (Block 136)
WHEN: 8 April, 2015 at 3:00 PM
WHERE: COUNCIL CHAMBERS, 1221 SW FOURTH AVENUE

Date: February 24, 2015
To: Interested Person
From: Jeff Mitchem, Land Use Services, 503-823-7011

A public hearing will be held to consider an appeal of the Design Commission’s decision to approve a new full-block mixed-use project in the Central City Plan District’s River sub-District including 2 north-south oriented bar buildings with a courtyard between at 1241 NW Johnson Street. The Design Commission decision of approval has been appealed by Preserve the Pearl, LLC. 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

Applicant/Owner: Michael Nanney | Security Properties
 701 Fifth Ave, Suite 5700 | Seattle, WA 98101
 SP Pearl LLC | 1201 Third Ave #5400 | Seattle, Wa 98101

Representatives: Heidi Oien | Mithun
 1201 Alaskan Way, Ste. 200 | Seattle, WA 98101
 Karen Karlsson | KLK Consulting, LLC
 906 NW 23rd Ave | Portland, OR 97210

Site Address: 1241 NW JOHNSON ST

Legal Description: BLOCK 136 LOT 1-8, COUCHS ADD
Tax Account No.: R180211770
State ID No.: 1N1E33AD 01600
Quarter Section: 2928

Neighborhood: Pearl District, contact Patricia Gardner at 503-243-2628.
Business District: Pearl District Business Association, contact Adele Nofield at 503-223-0070.

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Plan District: Central City - River District
Zoning: EXd, Central Employment with Design Overlay

Case Type: DZM, Design Review with Modifications (3)
Procedure: Type III, with a public hearing before the Design Commission. The decision of the Design Commission can be appealed to City Council.

Proposal:

A new full-block mixed-use project in the Central City Plan District's River sub-District. The project includes 2 north-south oriented bar buildings with a courtyard (approximately 10,000 square feet) between.

BLD #1: NW 13th Avenue Brick Building

- 5 stories
- Maximum Allowed Height of 120', the proposed building reaches 76'-1"
 - 75' base height
 - 45' General Height Bonus (33.510.210.D.). Maximum available for 3:1 FAR – 45'.
- Approximately 15,000 square feet of retail at ground level
- Approximately 60,000 square feet of office at levels 2-5.
- Rooftop program includes roof terrace, elevator/stair overrun, mechanical enclosure and eco roof.
- An at-grade loading space will be located within the public right-of-way on the east side of NW 13th Ave immediately north of the intersection with NW Johnson St
- 13th Ave dock within the right-of-way, as allowed by the River District ROW standards – approximate dimensions: 124' long, 12'-16' deep, 3' – 4'-9" high. Single ADA ramp oriented north to NW Johnson St.
- Courtyard dock – approximate dimensions: 124' long, 8'-14' deep, 3' – 4'-9" high

BLD #2: NW 12th Avenue Tower Building

- 15 stories
- Maximum Allowed Height of 150', the proposed building reaches 148'-4"
 - 75' base height
 - 75' height bonuses
 - 45' General Height Bonus (33.510.210.D.). Maximum available for 3:1 FAR – 45'.
 - 30' Bonus Height Option for Housing (33.510.210.E.). Maximum available for housing – 75'.
 - If both bonus options are used, combined bonus height may not exceed 75'.
- Approximately 208 residential flats
- Total number of parking spaces proposed is 196 spaces in two levels of underground parking
- Parking and loading will be accessed from NW 12th Avenue. Three loading spaces are proposed: *Space A*. A space within the footprint of the NW 12th Ave apartment building (with access from NW 12th Ave) is 35 feet long x 11 feet 5 inches wide. *Space B*. Standard B size (18' long x 9' wide x 10' clear) located within the footprint of the NW 12th Ave apartment building (with access from NW 12th Ave). The space will be scheduled for food deliveries in the morning and generally available for office deliveries and service vehicles. *Space C*. A cargo van loading space (18' long x 10' wide x 8'-11" clear) located within the footprint of the NW 13th Ave building. Scheduled for food deliveries in the morning and available generally for office deliveries and service vehicles.

Site FAR

- Maximum FAR allowed for the site is 7:1, the proposed buildings combined reach approximately 6:1.
 - 4:1 base FAR (Map 510-2)
 - 3:1 FAR Residential Bonus (33.510.210.C.1.a(1)). For each square foot of housing, a bonus of 1 square foot of floor area is earned (max 3:1).

Modifications are required. **NOTE:** The project as proposed at the time of the initial Design Review Hearing on December 18, 2014 required an Adjustment for quantity of loading spaces. Prior to the continuation hearing on January 22, 2015 the project was redesigned to include additional on-site loading spaces that only necessitated a Modification. As such, an Adjustment was no longer required. The three Modifications are:

1. **Rooftop Access & Mechanical (33.140.210.B.2.)** All rooftop mechanical equipment and enclosures of stairwells that provide rooftop access must be set back at least 15 feet from all roof edges that are parallel to street lot lines. Rooftop elevator mechanical equipment may extend up to 16 feet above the height limit. Stairwell enclosures, and other rooftop mechanical equipment which cumulatively covers no more than 10 percent of the roof area may extend 10 feet above the height limit. **12th Ave Building** – The rooftop mechanical enclosure is set back 13'-2" from the roof edge abutting 12th Ave and 8'-0" from the roof edge facing the courtyard. One piece of mechanical equipment is in excess of 10 feet tall (a make-up air unit at 13 feet tall.) And, the cumulative area of roof enclosures 10' above the height limit – exceeds the 10% of roof area limit. Total coverage for this building is 18.8%.
2. **Size of Loading Spaces (33.266.310.D.a.)** Two (2) Standard A loading spaces are required. A Standard A loading space must be at least 35 feet long, 10 feet wide, and have a clearance of 13 feet. The project proposes three loading spaces:
 - **Space A.** A space within the footprint of the NW 12th Ave apartment building (with access from NW 12th Ave) is 35 feet long x 11 feet 5 inches wide (except at doorway which is 10 feet wide). The height of the space, however, varies. A majority of the space (28 feet of it) is 19 feet 6 inches high with the remaining portion varying from 11 feet (at doorway) to 12 feet outside the doorway. The space will be scheduled for food deliveries in morning, resident move-in/out during the day and generally available for office deliveries.
 - **Space B.** Standard B size (18' long x 9' wide x 10' clear) located within the footprint of the NW 12th Ave apartment building (with access from NW 12th Ave). The space will be scheduled for food deliveries in the morning and generally available for office deliveries and service vehicles.
 - **Space C.** A cargo van loading space (18' long x 10' wide x 8'-11" clear) located within the footprint of the NW 13th Ave building. Scheduled for food deliveries in the morning and available generally for office deliveries and service vehicles.
3. **Modification Request #2: Bike Parking Space Dimension (33.266.220.C.3.b.)** A space 2 feet by 6 feet must be provided for each required bicycle parking space, so that a bicycle six feet long can be securely held with its frame supported so that the bicycle cannot be pushed or fall in a manner that will damage the wheels or components. The project proposes staggered vertical storage, dimensioned at 18" x 6' with a 5' walk aisle.

Approval Criteria:

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

- River District Design Guidelines
- 33.510.210 E.4. Bonus Height Option for Housing
- Central City Fundamental Design Guidelines
- Modification Criteria (33.825.040)

REVIEW BODY DECISION

It is the decision of the Design Commission to approve Design Review for a new full-block, two-building, mixed-use project in the Central City Plan District's River sub-District consisting of the following: Building #1, NW 13th Avenue brick building – 5 stories, maximum height 76'-1"; Building #2, NW 12th Avenue Tower Building – 15 stories, maximum height of 148'-4"; and, a 10,000 square-foot (approximate) courtyard. Approval of the three Modification requests:

Rooftop Access & Mechanical (33.140.210.B.2.); Size of Loading Spaces (33.266.310.D.a.); and, Bike Parking Space Dimension (33.266.220.C.3.b.)

Approvals per Exhibits C.1, Block 136 Land Use Application Drawing Set (pages 1-155) and C.2, Block 136 – Materials & Cut Sheets (Chapter 1-7) signed, stamped, and dated January 29, 2015, subject to the following conditions:

A. No field changes allowed.

APPEAL

The Design Commission's decision of an approval has been appealed by Preserve the Pearl, LLC. ***According to the appellants' statement***, the appeal of the Design Commission's decision is based on arguments that:

1. **Flawed Public Process.** Public process did not meet due process standards – communication by the Pearl District Neighborhood Assn was insufficient, the Design Commission solicited improper information from DAR testifiers and the Design Commission improperly considered future design guidelines.
2. **FAR Height Exception is Really for Housing.** The allowance of two separate residential / housing exceptions to the height limit is improper.
3. **Project Violates Specific Zoning Code Provisions.** The project does not meet all of the design guidelines required in the two bonus height exceptions found in 33.510.210 D and E.

Review of the case file: The Design Commission's decision and all evidence on this case are now available for review at the Bureau of Development Services, 1900 SW 4th Avenue, Suite 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.

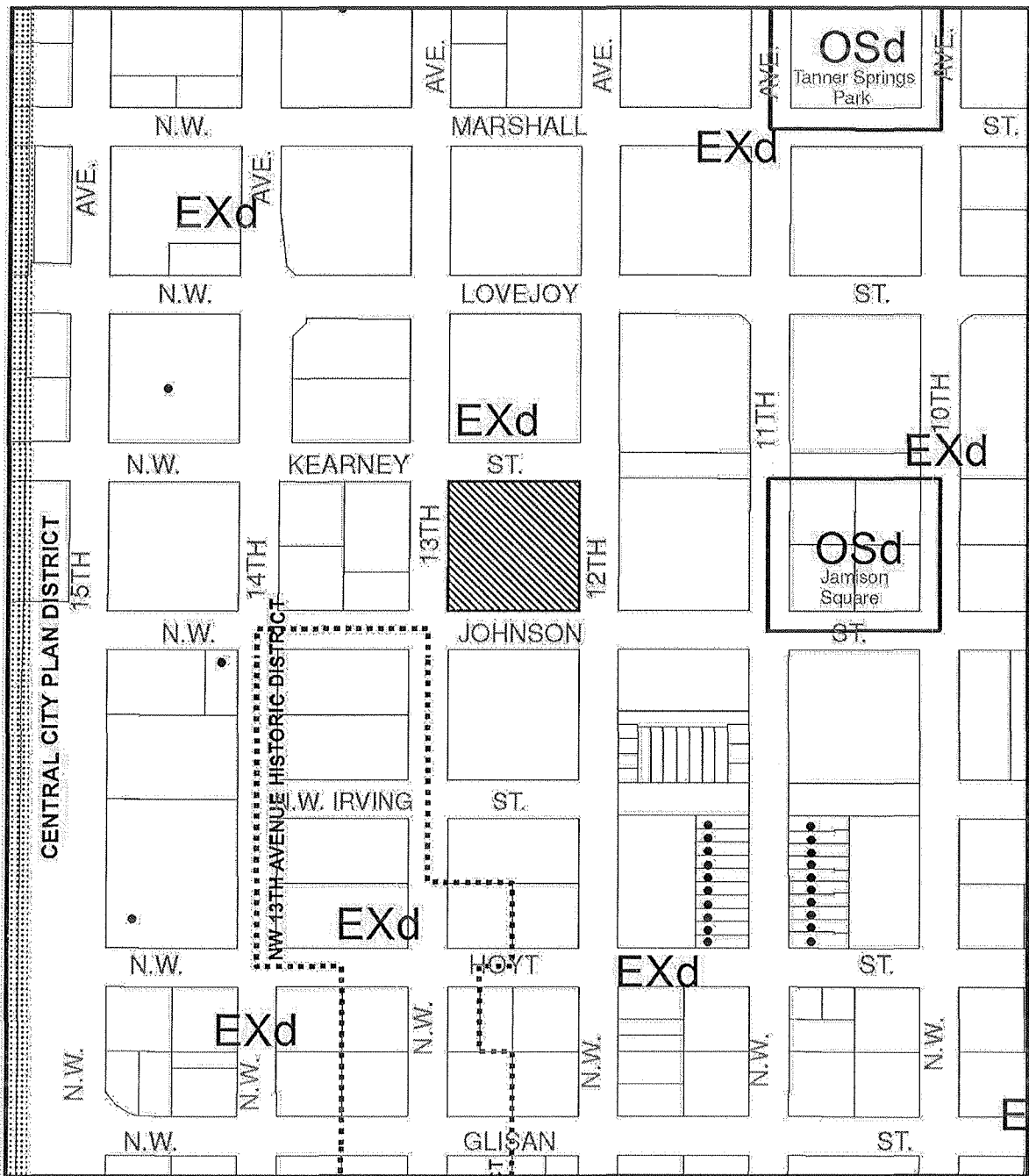
If you choose to provide testimony by electronic mail, please direct it to the Council Clerk at CCtestimony@portlandoregon.gov. Due to legal and practical reasons, City Council members cannot accept electronic mail on cases under consideration by the Council. Any electronic mail on this matter must be 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

 Historic Landmark



This site lies within the:
CENTRAL CITY PLAN DISTRICT
RIVER SUBDISTRICT

File No. LU 14-230014 DZM,AD
 1/4 Section 2928
 Scale 1 inch = 200 feet
 State_Id 1N1E33AD 1600
 Exhibit B (Oct 24, 2014)

7

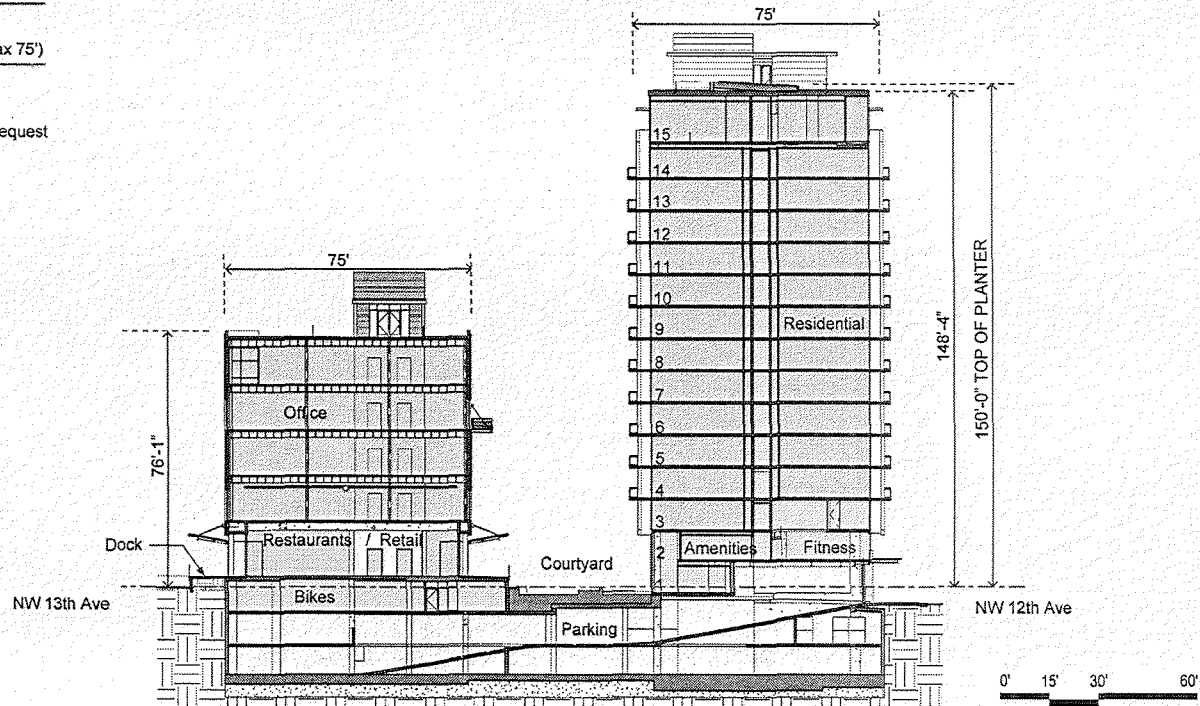
Overall Project

Building Section Looking North

Height Request

Zone Maximum Height:	75'
General Bonus Height:	+45'
Subtotal:	120'
Residential Bonus Request: *	+ 30' (max 75')
Total Request:	150'

* Reference Appendix for detail on height request



Overall Project

South Project Elevation





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: 14-230014 DZM AD

FOR INTAKE, STAFF USE ONLY

Date/Time Received 2/17/15 @ 8:13 AM

Received By Mary

Appeal Deadline Date 2/17/15 @ 4:30 pm

Entered in Appeal Log

Notice to Auditor

Notice to Dev. Review

Action Attached copy shown - but he didn't want to take it

Fee Amount \$5,000

Fee Waived

Bill # 3728051

Unincorporated MC

APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS 1241 NW Johnson ST DEADLINE OF APPEAL Feb 17, 2015

Name Preserve The Pearl LLC

Address 3430 SE Belmont St, Ste 209 City Portland, OR State/Zip Code 97214

Day Phone 503-858-4005 Email preservethepearl@riseup.net

Interest in proposal (applicant, neighbor, etc.) neighbors/advocacy group

Identify the specific approval criteria at the source of the appeal:

Zoning Code Section 33. 510 . 210B4

Zoning Code Section 33. 510 . 210E4e

Zoning Code Section 33. 510 . 210D

Zoning Code Section 33. 510 . 210E4f

Describe how the proposal does or does not meet the specific approval criteria identified above or how the City erred procedurally:

1. Public Process was flawed. 2. FAR height exception is really for housing. 3. The project violates specific provisions of 33.510.210D and 33.510.210E4 e and f so bonus height should NOT be allowed. Detailed brief attached.

Appellant's Signature Preserve The Pearl LLC, by: *[Signature]* Pres.

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

[Signature] Sec.
[Signature] Officer Agent

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.

CASE NO. H-01
EXHIBIT

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 4th 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.