



# CITY OF PORTLAND

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## NOTICE OF FINAL DECISION

TO: All Interested Persons

DATE: March 11, 2014

RE: LU 13-214772 DZM MS AD

Appeal of SEIU Local 49 against the Design Commission's decision to approve the application of TV Architects for the Park Avenue West tower, a new 30-story mixed use building at 728 SW 9<sup>th</sup> Avenue (Hearing; LU 13-214772 DZM MS AD)

Enclosed is a copy of the Order of Council on LU 13-214772 DZM MS AD denying the appeal of SEIU Local 49 and upholding the Design Commission's decision with an additional condition to approve the application of TVA Architects for the Park Avenue West Tower. If you wish to obtain a copy of the City Council's findings and decision, please contact Karla Moore-Love, Council Clerk by email at: [Karla.Moore-Love@portlandoregon.gov](mailto:Karla.Moore-Love@portlandoregon.gov) or at (503) 823-4086.

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with the Board within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have appeared orally or in writing during the City's proceedings on this land review. The Board's address is: DSL Building 775 Summer Street NE, Suite 330, Salem, OR 97301-1283. You may call the Land Use Board of Appeals at 1-503-373-1265 or visit LUBA's website ([www.oregon.gov/LUBA](http://www.oregon.gov/LUBA)) for further information on filing an appeal.

Encl.

**ORDER OF COUNCIL ON APPEAL OF SEIU LOCAL 49 AGAINST THE DESIGN COMMISSION'S DECISION TO APPROVE THE APPLICATION OF TVA ARCHITECTS FOR THE PARK AVENUE WEST TOWER, A NEW 30-STORY MIXED USE BUILDING AT 728 SW 9<sup>TH</sup> AVENUE (HEARING; LU 13-214772 DZM MS AD)**

**Appellant:** David Noren, Attorney at Law representing SEIU Local 49  
217 East Main Street  
PO Box 586  
Hillsboro, OR 97123

**Applicants:** TVA Architects, Robert Thompson  
920 SW 6<sup>th</sup> Ave., Ste. 1500  
Portland, OR 97204

**Property Owners:** West Park Avenue LLC, Lamont Smith  
805 SW Broadway #2020  
Portland, OR 97205-3360

City of Portland  
Bureau of Parks and Recreation  
1120 SW 5<sup>th</sup> Avenue, #132  
Portland, OR 97204

**Site Address:** Building site: 728 SW 9<sup>th</sup> Avenue  
Floor Area Transfer site: 877 SW Taylor Street, 800 SW Yamhill Street, 825 WI/SW Park Avenue

**Legal Description:** PORTLAND PARK BLOCKS BLOCK 4 LOTS 1-4, PORTLAND; PORTLAND PARK BLOCK, BLOCK 4; PORTLAND PARK BLOCK 5; PORTLAND, PORTLAND PARK BLOCKS, BLOCK 5, LOT 4

**Zoning:** CXd: Central Commercial zone with a design overlay

**Procedure:** Type III, with a public hearing before the Design Commission and the right to appeal the Design Commission's decision to City Council.

**Proposal:** The applicant seeks **Design Review** for a new 30-story mixed-use tower. The project includes underground parking, 2 floors of retail, 15 floors of housing (203 units), and 13 floors of office. The tower has been approved in 2007 as a 33-story tower and also in 2009 as a 26-story tower (07-140633 DZM, MS, AD; 07-169105 PR; 09-104171 DZ; and 09-136017 DZM MS). The 2007 design included housing, the 2009 design removed the housing, and the 2013 design reinserts a housing component. The current proposal matches the 26-story tower's exterior design exactly, but includes 4 additional floors. Other than the additional 4 floors, nothing else about the exterior design has changed.

The **Central City Master Plan Amendment** is necessary to allow an increase in the transfer of floor area from Director Park (formerly known as Park Block 5) to the proposed tower site (Park Block 4). The maximum development capacity of each of the two blocks is 12:1 (9:1 base FAR + 3:1 bonus FAR). In 2009 an MS approval allowed a 9.1:1 FAR transfer. The current proposal is for an additional 2.6:1 FAR transfer, for a total FAR transfer of 11.7:1 from Director Park to Park Block 4.

**Modification Requests:**

1. 33.130.210.B.1., Height –A Modification is requested so that the spire may rise more than 10’ above the height limit. The proposed spire will be 41’-7” above the site’s 460’ height limit.
2. 33.266.310 Loading Standards –Size of loading spaces – Two on-site 10’ x 35’ x 13’ loading spaces are required. The proposal includes a loading dock on the SW Park Avenue façade. The loading dock can accommodate one full-size loading vehicle, one sub-standard loading vehicle for 22’-5” wide vehicles, and a dedicated trash pick-up space. Additionally, the full-size and sub-standard loading spaces cannot be utilized at the same time. A Modification to this standard is requested.

**Adjustment Request:**

1. 33.510 Map 510-9, Parking Access Restricted Streets – All four streets are designated as Parking Access Restricted. The proposal includes access to loading and the below-grade parking at SW Park Avenue.

The appeal hearing before the City Council was opened in the Council Chambers, 1221 SW 4<sup>th</sup> Avenue on February 12, 2014 at approximately 2:00 p.m. After hearing public testimony, Council voted 5-0 to tentatively deny the appeal of SEIU Local 49, uphold the Design Commission’s decision, and approve the applicant’s proposal with an additional condition requiring the applicant to submit a signed and recorded covenant for the transfer of an additional 2.6:1 FAR from Park Block 5 to Park Block 4 prior to issuance of a building permit consistent with PCC 33.700.060.B., and ordered revised findings be prepared for March 5, 2014 at 10:00 a.m. On March 5, 2014 at 10:00 a.m. Council voted 4-0 to deny the appeal, uphold Design Commission’s decision with additional condition and adopt findings.

**DECISION**

Based on evidence in the record and adoption of the Council’s Findings and Decision in **Case File LU 13-214772 DZM MS AD** and by this reference made a part of this Order, **it is the decision of Council** to deny the appeal by SEIU Local 49 and uphold the Design Commission’s Decision with an additional condition to **approve application** for the Park Avenue West Tower, a new 30-story mixed use building at 728 SW 9<sup>th</sup> Avenue. The effect of the Council’s decision is:

1) **Approval of Design Review** for a full-block, 30-story retail, residential and office development in the Central City Plan District.

2) **Approval of a Central City Master Plan amendment.**

The previous CCMP under LU 09-136017 DZ MS approved a 9.1:1 floor area ratio transfer from Park Block 5 to Park Block 4. The current CCMP amendment requests an additional 2.6:1 FAR (52,000 SF) be transferred from Park Block 5 to Park Block 4 for a total of 11.7:1 FAR (234,000 SF) transferred to Park Block 4.

Park Block 5 FAR: Park Block 5 will achieve a 3:1 bonus FAR – .5 bonus FAR through the “water feature/public fountain bonus option” and 2.5 bonus FAR through the “locker room bonus option”. Park Block 5 will retain a base FAR of 0.3:1 to accommodate 3 small park structures. The remaining 11.7:1 FAR will be transferred to Park Block 4.

Park Block 4 FAR: Park Block 4 will achieve a 3:1 bonus FAR through the “residential bonus option. Through the Central City Master Plan process Park Block 4 will be allowed to develop the site with a 23.7:1 FAR (474,000 SF) – 11.7 FAR transferred from Park Block 5 and 12:1 from the maximum development potential of Park Block 4.

**3) Approval of 2 Modification Requests.**

1. 33.130.210.B.1. and 2, Height – A Modification is requested so that the spire may rise more than 10’ above the height limit. The proposed spire will be 41’-7” above the site’s 460’ height limit.

2. 33.266.310 Loading Standards – Vehicle Size – Two on-site 10’ x 35’ x 13’ loading spaces are required. The proposal includes a loading dock on the SW Park Avenue façade. The loading dock can accommodate one full-size loading vehicle, one sub-standard loading vehicle for 22-5” loading vehicles, and a dedicated trash pick-up space. The full-size and sub-standard loading spaces cannot be utilized at the same time.

**4) Approval of 1 Adjustment Request.**

33.510 Map 510-9, Parking Access Restricted Streets – All four streets are designated as Parking Access Restricted. The proposal includes access to loading and the below-grade parking at SW Park Avenue.

**Approvals** per Exhibits C.1-C-82, signed, stamped, and dated December 19, 2013, subject to the following Conditions of Approval:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in the drawings contained in Exhibits C.1-C.82. The sheets on which this information appears must be labeled, “Proposal and design as approved in Case File # LU 13-214772 DZM, MS, AD. No field changes allowed.”
- B. As required by PCC 33.700.060.B, the Applicant will submit a signed and recorded covenant for the transfer of an additional 2.6:1 FAR from Park Block 5 to Park Block 4 before BDS may issue a building permit for any development using this transferred FAR.

**IT IS SO ORDERED:**

MAR 11 2014

Date



Mayor Charlie Hales  
Presiding Officer at Hearing of  
March 5, 2014  
9:30 a.m. Session