



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portland.gov/bds

Date: December 13, 2021
To: Interested Person
From: Hillary Adam, Land Use Services
503-823-8953 / Hillary.Adam@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 21-095544 DZ – ROOFTOP SPA AND WINDSCREEN

GENERAL INFORMATION

Applicant: Francis Dardis francisd@ankrommoisan.com / 503-892-7304
Ankrom Moisan Architects
38 NW Davis St, Ste 300
Portland, OR 97209

Owner Representative: Travis Bartell TBartell@griffisresidential.com / 720-340-9945
650 Gaines Llc
650 S Gaines Street
Portland, OR 97239

Party of Interest: Todd Rocha
BNK Construction
45 82nd Drive, Suite 53b
Gladstone, OR 97027

Site Address: 650 S GAINES ST

Legal Description: BLOCK 158 TL 900, CARUTHERS ADD
Tax Account No.: R140914860
State ID No.: 1S1E10DB 00900
Quarter Section: 3429, 3430

Neighborhood: South Portland NA., contact at board@southportlandna.org
Business District: South Portland Business Association, contact info@southportlanddba.com.
District Coalition: Office of Community & Civic Life, contact Shuk Arifdjanov at shuk.arifdjanov@portlandoregon.gov

Plan District: Central City - South Waterfront

Zoning:	CXd -Central Commercial with Design overlay
Case Type:	DZ – Design Review
Procedure:	Type II, an administrative decision with appeal to the Design Commission.

Proposal:

The applicant proposes alterations to the existing 5th floor rooftop amenity and ecoroof to include:

- Removal of 430sf of existing ecoroof to allow for the introduction of an amenity spa, and reintroduction of 526sf of replacement ecoroof via new planters; and
- Introduction of a windscreen along the southern 5th floor parapet to be constructed of Ipé wood slats over tube steel structure to match other features on the building.

Ground floor interior lobby alterations are also proposed but are exempt from Design Review.

Design Review is required because the proposal is for non-exempt exterior alterations in a Design overlay zone.

Relevant Approval Criteria:

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

- Central City Fundamental Design Guidelines
- South Waterfront Design Guidelines

ANALYSIS

Site and Vicinity: The subject property is a 22-story mixed-use development with retail at the ground level and residential units above, in the South Waterfront subdistrict of Portland's Central City. The full-block site is bound by South Gaines Street to the north, South Moody Avenue to the West, South Bond Avenue to the East and the South Lane pedestrian accessway to the south.

The South Waterfront subdistrict, which is the subject of the South Waterfront Plan [adopted 11-13-02], is a low-lying narrow stretch of land bounded on the east by the Willamette River and by the I-5 freeway on the west. Consisting of about 130 acres of land and 6,500 linear feet of riverfront, this area has seen significant transformation from isolated, underutilized industrial areas to a vibrant neighborhood of mixed-use buildings, medical buildings and increasing connectivity with the rest of the city.

Zoning: The Central Commercial (CX) zone is intended to provide for commercial development within Portland's most urban and intense areas. A broad range of uses is allowed to reflect Portland's role as a commercial, cultural and governmental center. Development is intended to be very intense with high building coverage, large buildings, and buildings placed close together. Development is intended to be pedestrian-oriented with a strong emphasis on a safe and attractive streetscape.

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;
- Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.

The Central City Plan District implements the Central City 2035 Plan. The regulations address the unique role the Central City plays as the region’s premier center for jobs, health and human services, tourism, entertainment and urban living. The regulations encourage a high-density urban area with a broad mix of commercial, residential, industrial and institutional uses, and foster transit-supportive development, pedestrian and bicycle-friendly streets, a vibrant public realm and a healthy urban river. The site is within the South Waterfront Subdistrict of this plan district.

Land Use History: City records indicate that prior land use reviews include the following:

- EA 05-109260 DA – Design Advice Request for a 23-story, 226-foot high tower located on a 5-story podium occupying the full block site.
- LU 05-164915 DZM – Design Review approval for a 22-story apartment tower development with a four-story podium block containing retail, housing, roof terraces and screened parking. The proposal received an FAR bonus for providing at least 60% of ecoroof for the total roof area. Per the Code at that time, a covenant was required to guarantee an ecoroof of 28, 051 square feet in area, certified by BES. *Staff note: For the current review, BES has confirmed that the proposed amount of ecoroof will exceed the previously-approved amount, thus in conformance with the covenant, therefore the covenant is still in effect.
- LU 09-107538 DZ – Design Review approval for a new metal rooftop mechanical enclosure, new rooftop mechanical equipment and relocation of previously approved mechanical equipment on the Alexan Apartments.
- LU 20-161899 DZ – Design Review approval for one internally illuminated 49.5-square foot parapet sign.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed November 12, 2021. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (E1)
- Bureau of Transportation Engineering (E2)
- Fire Bureau (E3)
- Water Bureau
- Site Development Section of BDS

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 21, 2021. Three written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

1. Mila Ortiz, on November 23, 2021, wrote in opposition noting the abundance of construction in the area. See Exhibit F-1 for additional details.
2. Mila Ortiz, on November 23, 2021, wrote in opposition noting the abundance of construction in the area. See Exhibit F-2 for additional details.
3. Dana Eggers, on November 19, 2021, wrote with questions regarding construction timeline and level of disruption. See Exhibit F-3 for additional details.

Staff Response: Staff responded to Dana Eggers’ email by forwarding the contact information of the Applicant and owner, noting that these individuals would be better able to answer these questions. As to the first respondent’s concerns, staff would also suggest reaching out to the applicant and/or owner for more information on noise and disruption. There are no Design Review approval criteria that would warrant denial of a proposal based on ongoing construction activity in the vicinity.

ZONING CODE APPROVAL CRITERIA

Chapter 33.825 Design Review

Section 33.825.010 Purpose of Design Review

Design review implements the Design overlay zone, strengthening these areas as places designed for people. Design review supports development that builds on context, contributes to the public realm, and provides high quality and resilient buildings and public spaces.

Section 33.825.055 Design Review Approval Criteria

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

Findings: The site is designated with a design (d) overlay zone, therefore the proposal requires Design Review approval. Because of the site’s location, the applicable design guidelines are the Central City Fundamental Design Guidelines and the South Waterfront Design Guidelines.

Central City Plan Design Goals

1. Encourage urban design excellence in the Central City;
2. Integrate urban design and preservation of our heritage into the development process;
3. Enhance the character of the Central City’s districts;
4. Promote the development of diversity and areas of special character within the Central City;
5. Establish an urban design relationship between the Central City’s districts and the Central City as a whole;
6. Provide for a pleasant, rich and diverse pedestrian experience for pedestrians;
7. Provide for the humanization of the Central City through promotion of the arts;
8. Assist in creating a 24-hour Central City which is safe, humane and prosperous;
9. Ensure that new development is at a human scale and that it relates to the scale and desired character of its setting and the Central City as a whole.

South Waterfront Design Goals

The South Waterfront Design Guidelines and the Greenway Design Guidelines for the South Waterfront supplement the Central City Fundamental Design Guidelines. These two sets of guidelines add layers of specificity to the fundamentals, addressing design issues unique to South Waterfront and its greenway.

The South Waterfront Design Guidelines apply to all development proposals in South Waterfront within the design overlay zone, identified on zoning maps with the lowercase letter “d”. These guidelines primarily focus on the design characteristics of buildings in the area, including those along Macadam Avenue, at the western edge, to those facing the greenway and river.

The Greenway Design Guidelines for the South Waterfront apply to development within the greenway overlay zone, identified on zoning maps with a lowercase “g”. These design guidelines focus on the area roughly between the facades of buildings facing the river and the water’s edge.

South Waterfront Design Guidelines and Central City Fundamental Design Guidelines

The Central City Fundamental Design and the South Waterfront Design Guidelines and the Greenway Design Guidelines for South Waterfront focus on four general categories. **(A) Portland Personality**, addresses design issues and elements that reinforce and enhance Portland’s character. **(B) Pedestrian Emphasis**, addresses design issues and elements that contribute to a successful pedestrian environment. **(C) Project Design**, addresses specific building characteristics and their relationships to the public environment. **(D) Special Areas**, provides design guidelines for the four special areas of the Central City.

Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.

A4-2 Integrate Stormwater Management Systems in Development. Integrate innovative stormwater management systems with the overall site and development designs.

B6. Develop Weather Protection. Develop integrated weather protection systems at the

sidewalk-level of buildings to mitigate the effects of rain, wind, glare, shadow, reflection, and sunlight on the pedestrian environment.

B7. Integrate Barrier-Free Design. Integrate access systems for all people with the building's overall design concept.

C1. Enhance View Opportunities. Orient windows, entrances, balconies and other building elements to surrounding points of interest and activity. Size and place new buildings to protect existing views and view corridors. Develop building façades that create visual connections to adjacent public spaces.

C2. Promote Quality and Permanence in Development. Use design principles and building materials that promote quality and permanence.

C3. Respect Architectural Integrity. Respect the original character of an existing building when modifying its exterior. Develop vertical and horizontal additions that are compatible with the existing building, to enhance the overall proposal's architectural integrity.

C5. Design for Coherency. Integrate the different building and design elements including, but not limited to, construction materials, roofs, entrances, as well as window, door, sign, and lighting systems, to achieve a coherent composition.

C11. Integrate Roofs and Use Rooftops. Integrate roof function, shape, surface materials, and colors with the building's overall design concept. 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. Develop rooftop terraces, gardens, and associated landscaped areas to be effective stormwater management tools.

Findings for A4-2, B6, B7, C1, C2, C3, C5, and C11:

The proposal meets the applicable approval criteria in the following ways:

- The existing ecoroof at the fifth floor level covers 61% of the total roof area. While the proposal will remove some of the existing ecoroof, new planted area is proposed to replace and even exceed the total amount of planted area connected to the stormwater management system than currently exists, thus keeping the proposal in conformance with the 2006 ecoroof covenant.
- The proposed Ipé screen at the south edge of the fifth floor terrace is intended to mitigate southerly winds that blow over the other shorter buildings to the south.
- The existing building provides barrier-free access throughout. The proposed spa is accessible to all users with a 1:12 ramp to the upper deck surface and transfer bench at 16"-18" above the deck allowing ease of access.
- While the proposed windscreen will minimize views to the south toward the adjacent building, views toward the river will be maintained as no screen is proposed along the eastern parapet.
- The proposed windscreen is to be constructed of Ipé which is a hardy tropical species of wood. The existing building was constructed in 2006 with Ipé used extensively along the south, demonstrating that with proper maintenance such a material can withstand the elements.
- The proposal to use Ipé for the windscreen is consistent with the original design of the building at this southern façade, thus ensuring coherency with the overall design aesthetic.
- The proposed spa provides an additional element to this rooftop that will further activate the rooftop by encouraging more users of the space with a variety of amenities.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The design review process implements the Design overlay zone, strengthening these areas as places designed for people. Design review supports development that builds on context, contributes to the public realm, and provides high quality and resilient buildings and public spaces. The proposal integrates a new activating use at the rooftop in a manner consistent with the original design of the building. The proposal meets the applicable design guidelines and therefore warrants approval.

ADMINISTRATIVE DECISION


Approval of alterations to the existing 5th floor rooftop amenity and ecoroof in the South Waterfront subdistrict of the Central City Plan District to include:

- Removal of 430sf of existing ecoroof to allow for the introduction of an amenity spa, and reintroduction of 526sf of replacement ecoroof via new planters; and
- Introduction of a windscreen along the southern 5th floor parapet to be constructed of Ipé wood slats over tube steel structure to match other features on the building.

This approval is per the approved site plans, Exhibits C-1 through C-10, signed and dated December 7, 2021, subject to the following conditions:

- As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 21-095544 DZ." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- No field changes allowed.

Staff Planner: Hillary Adam

Decision rendered by:  **on December 7, 2021**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 13, 2021

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on October 13, 2021, and was determined to be complete on November 5, 2021.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on October 13, 2021.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or

extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: March 5, 2022.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Design Commission, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on December 27, 2021. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Design Commission is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Design Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **December 27, 2021** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative
 - 2. Submittal Drawing Set
 - 3. Submittal Checklist
 - 4. Demolition Plan
 - 5. Permit Plan Check Comments Page
 - 6. Original 5th Floor Permit Drawing
 - 7. Original 5th Floor Planting Plan
 - 8. Overlay Landscape and Permit
 - 9. Restrictive Covenant
 - 10. Completeness Response
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Level 5 Floor Plan
 - 3. East and West Elevations
 - 4. Existing South Elevation
 - 5. Proposed South Elevation (attached)
 - 6. Windscreen Details
 - 7. Photo Simulation of Windscreen
 - 8. Level 5 Planting Plan (attached)
 - 9. Spa Access Ramp Details
 - 10. Walkway Edge/Planter Detail
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Fire Bureau
- F. Correspondence:
 - 1. Mila Ortiz, on November 23, 2021, wrote in opposition noting the abundance of construction in the area. See Exhibit F-1 for additional details.
 - 2. Mila Ortiz, on November 23, 2021, wrote in opposition noting the abundance of construction in the area. See Exhibit F-2 for additional details.
 - 3. Dana Eggers, on November 19, 2021, wrote with questions regarding construction timeline and level of disruption.
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter, dated November 1, 2021

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).