



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

Ted Wheeler, Mayor  
Rebecca Esau, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
www.portlandoregon.gov/bds

**FINAL FINDINGS, CONCLUSIONS AND DECISION OF THE  
DESIGN COMMISSION**  
**ON AN**  
**APPEALED ADMINISTRATIVE DECISION**  
**(TYPE II PROCEDURE)**

**Case File Number: LU 18-277183 DZM AD - *New Residential Mixed-use at 5020 N Interstate***

The Administrative Decision for this case was appealed by Overlook Neighborhood Association, Christian J. Trejbal, Chair and Martin Segura, Carleton Hart Architecture PC to the City of Portland Design Commission. The Design Commission denied the appeal of the Overlook Neighborhood Association, partially granted the appeal of Martin Segura, and upheld the Administrative Decision with modifications that approved the proposal.

**GENERAL INFORMATION**

**Applicant/  
Representative/  
Appellant #2:** Martin Segura, Carleton Hart Architecture PC  
830 SW 10th Ave #200, Portland, OR 97205

**Appellant #1:** Overlook Neighborhood Association  
Christian J. Trejbal, Chair  
2436 N Wygant Street, Portland, OR 97217-3468

**Owners:** Diane Linn, Proud Ground  
5288 N Interstate Ave, Portland, OR 97217

City of Portland  
421 SW 6<sup>th</sup> Ave #1100, Portland OR 97204

**Party of Interest:** Faez Soud, Portland Housing Bureau  
421 SW 6th Ave, Ste 500, Portland, OR 97204

**Site Address:** 5020 N INTERSTATE AVE

**Legal Description:** BLOCK 34 LOT 1-4, M PATTONS ADD & 2ND  
**Tax Account No.:** R520502900  
**State ID No.:** 1N1E22BB 13800  
**Quarter Section:** 2529

**Neighborhood:** Overlook NA, contact landuse@overlookneighborhood.org.  
**Business District:** None  
**District Coalition:** North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

**Plan District:** North Interstate  
**Other Designations:** None  
**Zoning:** CM3dm – Commercial/Mixed Use 3 with Design (d) and Centers Main Street (m) Overlays  
**Case Type:** DZM – Design Review with Modifications

**Procedure:** Type II, an administrative decision with appeal to the Design Commission.

**Proposal:**

The applicant requests Design Review for a proposed 72,732 SF, 6-story residential mixed-use building with 64 dwelling units in the North Interstate Plan District. The proposed building would include a mix of affordable and market-rate dwelling units with a mix of 1- to 3-bedrooms. A commercial space, at approximately 1,953 SF, is proposed at the southwest corner of the building and site. Two residential dwelling units are proposed at the ground level facing N Interstate Avenue, and two more are proposed facing N Alberta Street. A parking area, with a mixture of surface and tuck-under parking spaces, is proposed along the northeastern portion of the site, and will be accessed via a driveway from N Webster Street.

The applicant also requests four (4) Modifications to zoning code development standards:

- 1) 33.130.222.C – Façade articulation: To reduce the minimum required amount of façade articulation on the west, street-facing façade from 25% to 24%.
- 2) 33.130.235.C – Screening, Mechanical equipment: To reduce the amount of required “L2, low screen” landscaping (which requires trees and continuous three-foot tall evergreen shrubs, in addition to ground cover) around the transformer at the northeast corner of the property. The standard requires “L2, low screen” landscaping along both the N Webster Street lot line to screen the transformer. The applicant proposes no required tree along the N Webster Street lot line.
- 3) 33.266.130.G.2.d.(1) – Parking area setbacks and landscaping, Perimeter landscaping: To reduce the amount of required “L2, low screen” landscaping (which requires trees and continuous three-foot tall evergreen shrubs, in addition to ground cover) near the transformer at the northeast corner of the property. The standard requires L2 landscaping along both the N Webster Street lot line and east lot line to screen the parking area. The applicant proposes no required tree along the N Webster Street lot line.
- 4) 33.266.220.C.3.b – Standards for all bicycle parking, Bicycle racks: To reduce the width of required long-term bike parking spaces in the bike parking rooms, which will be mounted vertically on the walls, from 2’-0” to 1’-6”, staggered 12” vertically so the handlebars of adjacent bikes do not interfere with each other.

The applicant also requests one (1) Adjustment to zoning code development standards:

- 1) 33.415.200 – Required Ground Floor Active Use: To reduce the amount of required ground floor active use area within 100 feet of a transit street – which N Interstate Avenue and N Alberta Street are – from 25% to approximately 18.3%. The applicant requests the Adjustment to allow for residential entry porches, residential units, and a residential bicycle maintenance room, to be located on the ground floor.

Note: There was an error with the calculation of the original Adjustment Review request stated on the public notice that was mailed out on February 19, 2019. The area of structured (tuck-under) parking on the east side of the site was not included in the original total ground floor area calculation. Thus, the ground floor active use area shown at the time the public notice was mailed was only approximately 14.8% of the total ground floor area, or 1,606 square feet, within 100 feet of the transit street. The proposal has since been revised by the applicant to indicate a commercial space at the southwest corner of the building with 1,953 square feet of ground floor active use area, or approximately 18.3% of the total ground floor area.

Design Review is required for proposed new development and for requested Modifications to zoning code site-related development standards in the “d” overlay zone. Adjustment Review is required for requested Adjustments to zoning code use-related development standards.

**Relevant Approval Criteria:**

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

- Community Design Guidelines
- 33.805.040, (Adjustment) Approval Criteria
- 33.825.040, Modifications That Will Better Meet Design Review Requirements

**ANALYSIS**

**Site and Vicinity:** The subject site is a 20,000 square-foot parcel that lies along the east side of N Interstate Avenue, between N Alberta Street to the south and N Webster Street to the north. The site was most-recently developed with a series of small, single-story commercial/retail structures that were oriented towards a surface parking lot which lined N Interstate Ave and which sat between the structures and the street. These buildings have recently been demolished.

The MAX light rail line runs along the central median of N Interstate Avenue, which has a right-of-way that is approximately 100-feet wide—much wider than most Portland streets. This right-of-way width can, at least in part, be attributed to the street’s former designation as the major north-south highway between Portland and Vancouver, Washington. Development along this corridor reflects both the street’s former highway character, with single-story and two-story retail and motel buildings, often set behind parking, and the street’s emerging character as a primary north-south transit corridor, with new residential and mixed-use developments of 5 to 6 stories and parking located behind the building, away from the N Interstate Avenue.

Development to the east of the subject site is largely composed of a mixture of single-dwelling and small multi-dwelling developments, though the CM3 and RH zoning to the east allows for much larger-scale development. Development to the west of the subject site, across N Interstate Ave is mostly single-dwelling residential behind pockets of commercial and taller residential and mixed-use buildings which line the western side of N Interstate Ave.

N Interstate Ave is classified as a Civic Main Street, District Collector, Regional Transitway/Major Transit Priority Street, Major City Bikeway, City Walkway, Major Emergency Response, and Truck Access Street in the city’s Transportation System Plan. N Alberta Street is classified as a Neighborhood Collector Street, City Bikeway, Secondary Emergency Response, and local service for all other modes. N Webster Street is classified as local service for all modes.

**Zoning:** The Commercial/Mixed Use 3 (CM3) zone is a large-scale zone intended for sites in high-capacity transit station areas, in town centers, along streetcar alignments, along civic corridors, and in locations close to the Central City. It is intended to be an intensely urban zone and is not appropriate for sites where adjacent properties have single-dwelling residential zoning. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to six stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, with buildings that contribute to an urban environment with a strong street edge of buildings. The scale of development is intended to be larger than what is allowed in lower intensity commercial/mixed use and residential zones. Design review is typically required in this zone.

The “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development are subject to design review. This is achieved through the creation of design

districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review. In addition, design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

The Centers Main Street “m” overlay zone encourages a mix of commercial, residential and employment uses on the key main streets within town centers and neighborhood centers identified in the Comprehensive Plan. The regulations are intended to encourage a continuous area of shops and services, create a safe and pleasant pedestrian environment, minimize conflicts between vehicles and pedestrians, support hubs of community activity, and foster a dense, urban environment with development intensities that are supportive of transit.

The North Interstate Plan District provides for an urban level of mixed-use development to support the MAX line and the surrounding neighborhoods by encouraging development that increases neighborhood economic vitality, amenities, and services and successfully accommodates additional density. These standards: implement urban design concepts of the North Interstate Corridor Plan; help ease transitions between new high-density development and the existing, low-density neighborhoods; and enhance the pedestrian experience.

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

- EA 18-183051 PC – Pre-application conference for a proposed five-story, 55,788 square foot affordable multi-dwelling development.
- VZ 047-70 (70-028643) – Variance approval to (old) Title 34 to reduce the south front yard from the required 15 feet to zero feet in order to erect a sign.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **February 19, 2019**.

- The Bureau of Environmental Services responded with no objections and with information about sanitary service, stormwater management requirements, and other permitting information. Please see Exhibit E-1 for additional details.
- The Bureau of Transportation Engineering responded with no objections and with information about street classification and design requirements, SDCs, and other permitting information. Please see Exhibit E-2 for additional details.
- The Water Bureau responded with no objections and with information about available water service to the site. Please see Exhibit E-3 for additional details.
- The Fire Bureau responded with a comment noting that all applicable Fire Code requirements shall apply at the time of permit review and development. Please see Exhibit E-4 for additional details.
- The Site Development Section of BDS responded with no objections and with general site development information. Please see Exhibit E-5 for additional details.
- The Bureau of Parks-Forestry Division responded with no objections and with street tree and tree plan permitting requirements. Please see Exhibit E-6 for additional details.
- The Life Safety Section of BDS responded with general life safety comments. Please see Exhibit E-7 for additional details.

*Staff sent all agency comments to the applicants for review.*

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on February 19, 2019. A total of three written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

- 1) Christian Trejbal, Chair of the Overlook Neighborhood Association Board, 03/11/2019. Letter in opposition to the requested Adjustment to the Centers Main Street Overlay

Required Ground Floor Active Use standard (33.415.010). The letter requests that the proposal meet the standard in full or exceed the standard.

- 2) Brad Lucas, Arbor Lodge Neighborhood Association Land Use Committee member, 03/12/2019. Letter stating that approval of the requested Adjustment to the Centers Main Street Overlay Required Ground Floor Active Use standard (33.415.010) should only be approved if the proposed commercial space is built with a Type 1 commercial hood and other infrastructure to support a food service tenant in order to avoid having a vacant commercial space.
- 3) Brad Lucas, Arbor Lodge Neighborhood Association Land Use Committee member, 03/15/2019. Letter providing additional details about other recent and/or new developments in and near the Arbor Lodge neighborhood, focusing primarily on development in the N Interstate Ave Plan District area. The letter identified two problems contributing to the trend of vacant retail spaces in this area: the zoning of the sites, which has allowed large residential projects without a mix of other uses, and inadequate space planning or programming of the proposed retail spaces, which make them unattractive to tenants.

*Staff Response:* Staff forwarded the letters received to the applicant to allow the development team an opportunity to respond. The applicant responded by enlarging the proposed commercial space at the southwest corner of the building by approximately 350 square feet. The applicant also indicated that no Type 1 commercial hood would be provided for the southwest corner commercial space.

A Notice of Appeal Hearing on a Proposal in Your Neighborhood was mailed on May 22, 2019. A total of twenty-three written responses have been received in response to the notice.

- 1) Paul De Vecchio, 06/11/2019. Letter in support of the proposal and Appellant #2's appeal, stating that no retail should be required for the building.
- 2) Jim Gardner, Chair, Land Use Committee of the South Portland Neighborhood Association, 2930 SW 2<sup>nd</sup> Ave, 06/13/2019. Letter in support of Appellant #1 and against approval of the requested Adjustment. Testifier noted that this could be regarded as a test case to see how strictly the m-overlay will be applied to other projects and stating that the standard needs to be met.
- 3) Owen Gabbert, Boise Neighborhood Association Land Use and Transportation Committee, 06/17/2019. Letter in support of Appellant #1 and against approval of the requested Adjustment. Testifier noted that approving the Adjustment would set a bad precedent, go against the stated intention of the overlay zone, and make it more difficult for future developments to have successful active uses. The testifier also noted that the code should be implemented by length of active façade rather than area of ground floor.
- 4) David Sweet, 4759 NE Going St, 06/17/2019. Letter in opposition to Appellant #1 and in favor of granting the requested Adjustment. Testifier stated that supplying affordable housing on the MAX line was the most important consideration and stated that establishing a precedent requiring the standard to be met would be detrimental to future affordable housing projects in the Cully Neighborhood.
- 5) Mary Vogel, Plan Green: Regenerating Communities, 06/18/2019. Letter in opposition to Appellant #1 and in favor of granting the requested Adjustment. Testifier stated that N Interstate Ave is not a vibrant retail corridor due to the barrier of the light rail tracks and that the city should not legislate the exact percentage of ground floor retail. Testifier also favorably cited the community land trust model that the proposal would implement.
- 6) Deborah Stein, Board Secretary, Proud Ground, 06/19/2019. Letter in support of Appellant #2 and in opposition to Appellant #1. Testifier stated that the proposal and the architects meet the spirit and intent of the guidelines. Testifier also stated that

flexibility should be given to proposals when issues of affordability and access come into play and noted that a consideration of equity requires a thoughtful consideration of context.

- 7) Daniel Valliere, CEO of Reach CDC, 4150 SW Moody Ave, 06/19/2019. Letter in support of Appellant #2, stating that the Administrative Decision's conditions of approval are onerous, inflexible, will hamper development throughout the city, and increase risk for the proposal. Testifier also stated that the proposal represents a national model for creating affordable homeownership opportunities.
- 8) Doug Klotz, 1908 SE 35<sup>th</sup> Place, 06/19/2019. Letter in support of Appellant #2 and in opposition to Appellant #1. Testifier noted difficulty in filling commercial spaces in other areas of the city and favors scaling back the Required Ground Floor Active Use requirements. Testifier also expressed support for residential units at the ground floor.
- 9) Julia Metz, 1480 N Jarrett St, 06/19/2019. Letter in opposition to Appellant #1 and in support of Appellant #2. Testifier noted challenges that face people, and in particular, people of color, looking to purchase an affordable home. Testifier also noted vacant commercial storefronts already line N Interstate Ave and stated that the Commission should allow a mix of "active use" types to face the street.
- 10) Neal Sacon, Skyblue Center for Community Development LLC, 7910 NE Failing St, 06/19/2019. Letter in support of Appellant #2 and challenging conditions D, E, F, G, and H, stating that the proposal meets all design requirements without conditions.
- 11) Tyler Koski, Proud Ground, 5288 N Interstate Ave, 06/19/2019. Letter in support of Appellant #2 and in opposition to Appellant #1. Testifier cited the proposal's preference policy and fiscal requirements and constraints as reasons to support Appellant #2.
- 12) Jessica Woodruff, Community Development Partners, 126 NE Alberta St, Suite 202, 06/19/2019. Letter in opposition to Appellant #1 and in opposition to condition of approval D. Testifier cited lack of affordable homeownership opportunities as opposed to amount of retail space. Testifier stated that retail should be located in one space and not split.
- 13) Jackie Keogh, Proud Ground, 7414 N Williams Ave, 06/19/2019. Letter in opposition to condition of approval D. Testifier cited proposal's preference policy and high-quality living units with outdoor space.
- 14) Marita I. DeLeon, Proud Ground, 6195 N Minnesota Ave, 06/19/2019. Testifier cited proposal's preference policy and stated that conditions of approval in the Administrative Decision could negatively impact affordability of the proposal's dwelling units.
- 15) Tyler Roppe, Kenton Neighborhood Association, 2209 N Schofield St, 06/19/2019. Letter in support of Appellant #1, stating that the proposal should instead meet the full standard for the requested Adjustment. Testifier noted that the proposed building will replace two former retail businesses on the site.
- 16) Thomas Karwaki, Chair of University Park Neighborhood Association Land Use Committee, 06/20/2019. Letter in support of Appellant #1. Testifier states that approving the Adjustment would result in a loss of meaning for all overlay zones.
- 17) Victor Caesar, 533 NE Holladay St, 06/20/2019. Letter in support of Appellant #2 and in opposition to Appellant #1. Testifier cites difficulties in purchasing a home on less than 80% of Area Median Income and cites that issues are further amplified by past city and government wrongdoings that resulted in large-scale displacement of families of color. Testifier also cited vacant commercial spaces and noted that proposal meets the intent of the code.
- 18) Travis Phillips, 06/20/2019. Letter in opposition to Appellant #1 and in support of Appellant #2. Testifier noted challenges that face people, and in particular, people of

color, looking to purchase an affordable home. Testifier states that the proposal meets the purpose of the overlay zone and cites vacant storefronts along the corridor.

- 19) Diane Coward, 06/20/2019. Letter in opposition to conditions of approval, citing additional cost to the non-profit owner. Testifier states that retail should be “nodal” rather than continuous.
- 20) Diane Linn, Proud Ground, 06/20/2019. Letter in support of Appellant #2. Testifier states that the proposal has evolved to include a commercial space to “provide opportunities for active community interaction at the street level.” Testifier states that all affordable units will remain affordable permanently and cited funding sources.
- 21) Aaron Brown, 06/20/2019. Letter in opposition to Appellant #1 and in support of Appellant #2. Testifier cites transportation, housing, and climate crises.
- 22) Gabriele Hayden, 1624 N Emerson St, 06/20/2019. Letter in opposition to Appellant #1 and in support of Appellant #2. Testifier states that ground floor housing is more important than ground floor retail and cites lack of demand for ground floor commercial spaces.
- 23) Mary Vogel, PlanGreen, 06/20/2019. Letter in opposition to Appellant #1 and in favor of granting the requested Adjustment. Testifier stated that N Interstate Ave is not a vibrant retail corridor due to the barrier of the light rail tracks and that the city should not legislate the exact percentage of ground floor retail. Testifier also favorably cited the community land trust model that the proposal would implement.

**Public Hearing:**

On June 20, 2019, the Design Commission held a public hearing to consider an appeal of the Administrative Decision on this case. The appeal was limited to the Administrative Decision’s approval of the requested Adjustment to the Required Ground Floor Active Use standard (33.415.200), which Appellant #1 said should be denied and the standard fully met, and the appeal was limited to the Administrative Decision’s conditions of approval D, E, F, G, and H, which Appellant #2 asked the Design Commission to overturn.

Benjamin Nielsen, the case planner and representative of the Bureau of Development Services (BDS)/Land Use Services Division, made a PowerPoint presentation (Exhibit H.36 that included a brief summary of the proposal, slides of the subject site and surrounding neighborhood, a summary of BDS’ findings related to the approval criteria, and a summary of key issues raised in the appellant’s statement.

Following BDS’ presentation, Appellant #1, Christian J. Trejbal, representing the Overlook Neighborhood Association, testified and submitted a presentation into the record (Exhibit H.37). Following the appellant testimony, the applicant/Appellant #2 provided testimony and submitted a presentation into the record (Exhibit H.38). After both appellants testified, the Design Commission heard public testimony in favor of, and in opposition to, both appellant parties. Following public testimony, Appellant #1 was allowed an opportunity to respond to the public testimony and the testimony of Appellant #2 and submitted a presentation into the record (Exhibit H.39). Next, Appellant #2 was allowed an opportunity to respond to public testimony and Appellant #1. After Appellant #2 presented his response, Appellant #1 was allowed an opportunity to rebut any testimony. Appellant #2 was then allowed a rebuttal. The Design Commission then closed the record at 6:35 PM and deliberated on the evidence and testimony that was submitted into the record. After deliberation, the Design Commission directed staff to prepare findings removing conditions of approval E, F, G, and H from the final decision and simplifying condition of approval D to allow for long-term bicycle parking to be placed in more locations in the building.

At the continued appeal hearing, which was held on June 27, 2019, the Design Commission

convened to deliberate on a staff report of tentative findings from the June 20, 2019 hearing. Before proceeding with deliberations, Chair Livingston reopened the record solely to allow individual commissioners to disclose *ex parte* contacts between the first hearing and the last hearing and to allow for rebuttal of their declared *ex parte* contacts. *Ex parte* contacts were declared as follows:

- Commissioner Sam Rodriguez declared *ex parte* contact following the June 20, 2019 hearing: he stated that he had “some interaction” with Appellant #1, and he expressed that he was “sorry that it seemed like the results weren’t going in the direction of the neighborhood association’s ... desires and that there was an opportunity still to appeal to LUBA ... which was consistent” with what he said on the record.
- Commissioner Vallaster declared *ex parte* contact following the June 20, 2019 hearing: he stated that he had a two sentence interaction with Appellant #1 where he expressed that he “thought the outcome was favorable” and he stated that “he gave me more of a disgruntled reaction”. He further stated, “That was the extent of the conversation.”
- Commissioner Santner disclosed two *ex parte* contacts following the June 20, 2019 hearing: first, she stated that she “complemented” Appellant #1 “for his very cogent and clear presentation”. She also declared that she “went to the site—visited the site—and walked and drove around the neighborhood and walked a good length of Interstate” Ave.
- Commissioner Molinar declared an *ex parte* contact, stating that she “also made a site visit” between the two hearings.
- Chair Livingston declared *ex parte* contacts: she stated that she “received some voicemails from numbers that [she] didn’t recognize” and that she “did not listen to them”. She stated that she “just put them in a separate folder to listen to after today’s hearing concludes or after this case concludes”. She also declared that she “received at least one email and could tell from the subject line that it was about this case” and she said she “put it in the same folder, did not read it” and that she was “waiting until after this case concludes to read it.”

Chair Livingston then invited anyone who wished to rebut the *ex parte* contact to come forward:

- Appellant #1 came forward to testify and stated, “...that I would add to Sam’s assessment of our conversation that, during that conversation, we discussed the LUBA appeal, and I made the suggestion that it would be better if the applicant were making the LUBA appeal. To which Sam’s response was, “They wouldn’t do that because they know they will lose.” He clarified that he “wanted that on the record, that he indicated to me that he was confident that an appeal would be favorable to the Overlook Neighborhood Association.”

No other parties wished to rebut the declarations of *ex parte* contact, and Chair Livingston again closed the record to resume Commission deliberations.

The Commission then deliberated on the tentative findings prepared by staff.

## **ZONING CODE APPROVAL CRITERIA**

### **Chapter 33.825 Design Review**

#### **Section 33.825.010 Purpose of Design Review**

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

#### **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 design overlay zoning (d), therefore the proposal requires Design Review approval. Because of the site's location, the applicable design guidelines are the Community Design Guidelines.

### **Community Design Guidelines**

The Community Design Guidelines consist of a set of guidelines for design and historic design cases in community planning areas outside of the Central City. These guidelines address the unique and special characteristics of the community plan area and the historic and conservation districts. The Community Design Guidelines focus on three general categories: **(P) Portland Personality**, which establishes Portland's urban design framework; **(E) Pedestrian Emphasis**, which states that Portland is a city for people as well as cars and other movement systems; and **(D) Project Design**, which assures that each development is sensitive to both Portland's urban design framework and the users of the city.

*Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project. Staff has also grouped the guidelines into three broad categories: Context, Public Realm, and Quality and Permanence.*

### **Context**

**P1. Plan Area Character.** Enhance the sense of place and identity by incorporating site and building design features that respond to the area's desired characteristics and traditions.

**D7. Blending into the Neighborhood.** Reduce the impact of new development on established neighborhoods by incorporating elements of nearby, quality buildings such as building details, massing, proportions, and materials.

**Findings for P1 & D7:** The following aspects of the proposal successfully address these guidelines:

- The residential mixed-use building with retail at the ground floor is a common type of structure and program found in the surrounding neighborhood, and this proposal will add to and complement it.
- The scale of the proposed development is in keeping with the scale of other, newer mixed-use developments along the N Interstate Ave corridor.
- The building's overall window patterning is generally regularized, reflecting the character of other residential mixed-use buildings in the neighborhood.
- Proposed metal panel cladding on the upper stories and proposed brick cladding on the ground floor both reflect materials and building details of other nearby, quality buildings in the district.

However, some aspects of the proposal do not satisfy these guidelines. Specifically:

- Proposed active uses on the ground floor are limited to a relatively small area of the half-block site, at the southwest corner of the proposed building. Additional ground floor active use area—and storefront windows to provide views into and from that space—should be provided to better enhance the major transit, bike, and pedestrian corridor characteristics of N Interstate Ave. To achieve that, a condition of approval will be required. The proposed bike storage room at the northwest corner of the building should be converted into a second ground floor commercial space. The bike parking that is currently proposed in this room could be incorporated within individual dwelling units or, as decided by the Design Commission at the June 20, 2019 appeal hearing, the bike parking could be relocated to elsewhere within the building and away from the street-facing facades. A storefront entry door should be placed on the N Interstate Ave frontage

at this new commercial space, too, to better respond to the development pattern of commercial uses along the corridor, and to comply with zoning code requirements. The door currently on the north elevation could remain or be removed.

- The building's frontage along N Webster St is currently devoted entirely to mechanical uses and parking—whether for cars or bikes. These very inactive uses do not contribute to the otherwise residential character of development along N Webster St, nor do they adequately integrate the much more intensive mixed-use building with the existing neighborhood. With the condition of approval described immediately below, these problems will be at least partially mitigated at the corner.

*With the condition of approval that the proposed bike storage room at the northwest corner of the building shall be converted into a ground floor Active Use space as listed in the "m" overlay zone, PZC section 33.415.200; that the bike parking that is currently proposed in this room shall be located either in individual units or, if on the ground floor, shall be located in an area away from the street-facing facades; and that a storefront entry door shall be placed on the N Interstate Ave frontage of the northwest corner commercial space, these guidelines will be met.*

### **Public Realm**

**E1. The Pedestrian Network.** Create an efficient, pleasant, and safe network of sidewalks and paths for pedestrians that link destination points and nearby residential areas while visually and physically buffering pedestrians from vehicle areas.

**Findings:** The following aspects of the proposal successfully address this guideline:

- Existing sidewalks along N Alberta St, N Interstate Ave, and N Webster St will remain and will likely be reconstructed to current city standards as part of the proposal.
- Sidewalk extensions at the southwest and northwest corners of the building provide additional space for other activities on the sidewalks along N Alberta St and N Interstate Ave, and with the condition of approval described in Findings for P1 & D7, above, also provides additional space for other activities on the sidewalk along N Webster St.

*With the condition of approval that the proposed bike storage room at the northwest corner of the building shall be converted into a ground floor Active Use space as listed in the "m" overlay zone, PZC section 33.415.200; that the bike parking that is currently proposed in this room shall be located either in individual units or, if on the ground floor, shall be located in an area away from the street-facing facades; and that a storefront entry door shall be placed on the N Interstate Ave frontage of the northwest corner commercial space, this guideline will be met.*

**E2. Stopping Places.** New large-scale projects should provide comfortable places along pedestrian circulation routes where people may stop, visit, meet, and rest.

**Findings:** The following aspects of the proposal successfully address this guideline:

- The proposal includes an extension of the sidewalk at the southwest corner of the site, adjacent to the proposed commercial space. This extension allows room for passing pedestrians or patrons of the commercial space to stop along the sidewalk, out of the sidewalk's through zone. It also allows room to place seating and tables along the sidewalk.

- The two ground floor residential units facing N Interstate Ave have large, raised porch areas between the sidewalk and the unit entries. While these are semi-private spaces, they nevertheless allow space for the residents or their visitors to visit, meet, and rest.
- The two ground floor residential uses facing N Alberta St have similar at-grade patio areas between the sidewalk and the unit entries. These semi-private spaces also allow space for the residents or their visitors to visit, meet, and rest.
- The main residential lobby entry is setback significantly from the sidewalk edge along N Interstate Ave, creating a large space for residents and their guests to stop and gather in front of the building. A small bench proposed in that location also provides an opportunity to rest in that space.

*Therefore, this guideline is met.*

**E3. The Sidewalk Level of Buildings.** Create a sense of enclosure and visual interest to buildings along sidewalks and pedestrian areas by incorporating small scale building design features, creating effective gathering places, and differentiating street level facades.

**Findings:** The following aspects of the proposal successfully address this guideline:

- The sidewalk level of the building is differentiated from the upper stories by the use of lightly-colored stacked Norman brick, as opposed to metal panel, and aluminum storefront windows used at the corner commercial space and the corner bike repair room.
- Visual interest is provided at the southwest corner through storefront windows opening into a commercial space. Some visual interest is provided with views into the bike repair room at the northwest corner of the building. Landscape planters near the ground floor residential stoops and residential windows provide for some interest along the rest of the N Interstate Ave frontage. Residential windows and small landscape planters provide interest along the rest of the N Alberta St frontage.
- An Original Art Mural (subject to the standards of Title 4) is proposed along the north elevation. While such murals are not subject to design review approval, the mural will help to provide interest along the N Webster St frontage.
- Per the Findings for E2, effective stopping and gathering places are provided at various locations along the west and south elevations.
- A sense of enclosure is created with a canopy over the main lobby entrance, building overhangs at the southwest and northwest corners of the building and over the residential porches and patios. Landscape planters along N Interstate Ave also help create a sense of enclosure along the sidewalk edge, buffering the residential porches from the sidewalk.
- The original Administrative Decision found that additional landscaping was needed at the residential patios along N Alberta St to create a better sense of enclosure. The Administrative Decision further found that this landscaping should be accommodated in planters in the ground at least 18 inches in width and running for the length of the low fences that separate the sidewalk from the patio spaces (excepting space for the entries. At least 6 inches of this space should be located on the sidewalk side of the fences and planted with ground covers, grasses, or flowering plants, and at least 12 inches should be on the patio side of the fences and planted with evergreen shrubs that will grow as tall as the fence itself. These additions would help to create a layered landscape buffer, similar to that proposed at the two residential units facing N Interstate Ave, increasing the sense of enclosure and visual interest along N Alberta St. This will

also have the effect of further buffering the semi-private patio spaces from the public sidewalk, which has been found to increase ownership and activation of these spaces on other similar projects in the city, resulting in these patio spaces becoming more effective outdoor gathering spaces along the sidewalk.

The Design Commission reconsidered these findings and the condition of approval derived from them in the Administrative Decision. Through its deliberations the majority of the Commission determined that, in this particular instance, the proposed residential patios with the proposed railings along N Alberta were sufficient to meet this guideline and, furthermore, that the patios may offer opportunities for home-based micro retail, both inside and on the patios, and may offer the opportunity to transition to work/live in the future without the landscaping required by the Administrative Decision. The Commission removed the condition of approval requiring additional landscaping in this area as a result of their deliberations.

- The original Administrative Decision found that glazing at the four ground level residential units is provided at just above the minimum required area of 25% of the residential ground floor facades. Large blank, brick walls and opaque doors along both N Interstate Ave and N Alberta St serve to decrease overall visual interest along these streets. The Decision found that doors with full lights (glazing) should be provided as well as transoms above the doors to increase glazing on both streets. Furthermore, along the N Interstate Ave frontage, sidelights should also be incorporated to provide additional glazing and visual interest along this important street. All three changes would help to increase visual interest at the ground level, and the Administrative Decision required these changes be made through a condition of approval.

The Design Commission reconsidered the findings of the Administrative Decision at the June 20, 2019 hearing, and a majority of the Commission found that proposed glazing along both streets was sufficient to meet the guideline. Thus, the Commission removed the condition of approval requiring additional glazing at the residential entry doors. However, at the June 27, 2019 hearing, the Commission again deliberated on this issue and determined that some glazing was needed to best meet this guideline. The Commission therefore retained a portion of the original condition of approval from the Administrative Decision and found that transom windows are needed to satisfy this guideline.

However, some aspects of the proposal do not satisfy this guideline. Specifically:

- The building's frontage along N Webster St is currently devoted entirely to mechanical uses and parking—whether for cars or bikes. These inactive uses do not help to create a sense of visual interest along the N Webster St sidewalk, nor are they conducive to creating effective gathering places. With the condition of approval required in the Findings for P1 & D7 (and repeated here), however, this guideline will be better met along that frontage by creating additional visual interest in the form of active indoor uses at the northwest corner of the building.

*With the condition of approval that the proposed bike storage room at the northwest corner of the building shall be converted into a ground floor Active Use space as listed in the "m" overlay zone, PZC section 33.415.200; that the bike parking that is currently proposed in this room shall be located either in individual units or, if on the ground floor, shall be located in an area away from the street-facing facades; and that a storefront entry door shall be placed on the N Interstate Ave frontage of the northwest corner commercial space; and,*

*With the condition of approval that all units on the ground floor shall have a transom window above the door and a light fixture, this guideline will be met.*

**E4. Corners that Build Active Intersections.** Create intersections that are active, unified, and have a clear identity through careful scaling detail and location of buildings, outdoor areas, and entrances.

**Findings:** The following aspects of the proposal successfully address this guideline:

- The large area of storefront glazing at the southwest corner commercial space helps to give clear identity to that corner and helps to activate the corner with views into and out of the commercial space.
- The building mass is taller along the N Interstate Ave frontage than the rest of the building massing. This helps to accentuate and identify the northwest and southwest corners of the building while maintaining an uncomplicated and cohesive massing composition.
- With the condition of approval required in Findings for P1 & D7, above, and repeated here, the northwest corner space will host an active ground floor use. Combined with the large storefront windows and the entrance that will open onto N Interstate Ave, this corner will also be activated with views into and out of the space.

*With the condition of approval that the proposed bike storage room at the northwest corner of the building shall be converted into a ground floor Active Use space as listed in the “m” overlay zone, PZC section 33.415.200; that the bike parking that is currently proposed in this room shall be located either in individual units or, if on the ground floor, shall be located in an area away from the street-facing facades; and that a storefront entry door shall be placed on the N Interstate Ave frontage of the northwest corner commercial space, this guideline will be met.*

**E5. Light, Wind, and Rain.** Enhance the comfort of pedestrians by locating and designing buildings and outdoor areas to control the adverse effects of sun, shadow, glare, reflection, wind, and rain.

**Findings:** The following aspects of the proposal successfully address this guideline:

- The upper stories of the building extend over street-facing residential porches along N Interstate Ave and over street-facing residential patios along N Alberta St. While these overhangs may only moderately enhance the comfort of passing pedestrians, they will enhance the comfort of residents of the adjacent units and their visitors.
- A shallow, four-foot deep canopy over the main residential lobby entrance provides protection from the weather for visitors and residents entering and exiting the building.
- The Administrative Decision found that, at the proposed commercial space at the southwest corner of the building, the upper stories project over an extension of the sidewalk by only 3'-10 ¾" inches. The Administrative Decision noted that staff and the Design Commission have, on many past proposals, found that 4'-0" of coverage over the sidewalk is the bare minimum needed to provide adequate protection for pedestrians from light, wind, and especially rain. The Administrative Decision further found that, since it would be inappropriate to move the west wall of this commercial space further back into the site (this would further exacerbate the Adjustment Review request and also reduce the sense of enclosure on the street, detracting from Guideline E3), a canopy or awning

system should be proposed along this stretch of the west elevation. The Administrative Decision found that this could be achieved through a condition of approval requiring a follow-up design review to examine a canopy or awning system in this area, or this can be achieved through a condition of approval requiring the proposal to provide awnings at each storefront window that project at least 4'-0" over the sidewalk or sidewalk extension and that meet the exemption from Design Review in zoning code section 33.420.045.S. Additionally, to help to unify the ground floor and maintain a cohesive composition along the N Interstate Ave frontage, better meeting Guideline D8, the same canopy or awning system should be used on the west elevation of the northwest corner space (which has been conditioned elsewhere to become a ground floor active use space).

The Design Commission reconsidered the findings of the Administrative Decision and determined that, on the whole, the proposed building setbacks were sufficient weather protection in this instance and that the condition of approval imposed by the administrative decision was, therefore, unwarranted.

*Therefore, this guideline is met.*

**D1. Outdoor Areas.** When sites are not fully built on, place buildings to create sizable, usable outdoor areas. Design these areas to be accessible, pleasant, and safe. Connect outdoor areas to the circulation system used by pedestrians;

**D3. Landscape Features.** Enhance site and building design through appropriate placement, scale, and variety of landscape features.

**Findings for D1 & D3:** The following aspects of the proposal successfully address these guidelines:

- A large outdoor area, intended for use by residents, is located at the rear of the building near the southeast side of the site. This outdoor area includes a variety of plants that will help to screen this area from the parking lot and make the space more pleasant for residents. A small play structure, a bench, and tables with seating will provide outdoor amenities for residents to use in the space. The space is accessible via a pathway from the rear of the building.
- The main residential lobby entry is setback significantly from the sidewalk edge along N Interstate Ave, creating a large space for residents and their guests to stop and gather in front of the building. A small bench proposed in that location also provides an opportunity to rest in that space. A small landscape planter provides additional enhancement to the area.
- The two ground-floor residential units facing N Interstate Ave have large, raised porch areas between the sidewalk and the unit entries. These provide usable outdoor space for residents of the two ground-floor dwelling units here. Landscape planters feature a mixture of shrubs, grasses, and ground cover that will help to provide additional buffering and emphasize the transition between the sidewalk and the porch.
- Large trees and shrubs are provided along the east property line to help provide buffering between the parking lot and adjacent development. The large trees will also help to make the parking lot a more pleasant space for residents passing through the parking area.
- Landscape screening in the form of two species of evergreen shrubs is proposed between the sidewalk and the electrical transformer for the building along N Webster St.

*Therefore, these guidelines are met.*

**D2. Main Entrances.** Make the main entrances to houses and buildings prominent, interesting, pedestrian accessible, and transit-oriented.

**Findings:** The following aspects of the proposal successfully address this guideline:

- The primary residential lobby entrance is setback from the sidewalk and located in a recess in the building massing, both of which help to identify and lend prominence to the entrance. This entrance is accessible at grade and faces N Interstate Ave, which is the primary transit frontage for this site.
- Two residential dwelling unit entries face N Interstate Ave, making these transit-oriented entrances as well. They are elevated from the sidewalk and set back behind landscaping, creating porches that face the street and add interest to the sidewalk. Accessible access to these units is provided through a hallway on the interior side of the units.
- Two residential dwelling unit entries face N Alberta St. These are at-grade, making them accessible, and they are oriented to transit, facing the public street. The Administrative Decision originally found that landscaping at these entries would make them more prominent, however, and would also provide additional interest and transition between the semi-private space of the patio and the public space of the sidewalk, and the Administrative Decision required landscaped planters through a condition of approval in Findings for Guideline E3. The Design Commission reconsidered the Findings for Guideline E3 and determined that a condition of approval requiring landscaping is not needed, as stated above in Findings for Guideline E3, and the Commission determined that this guideline would be satisfied as proposed by the applicant.

*Therefore, this guideline is met.*

**D4. Parking Areas and Garages.** Integrate parking in a manner that is attractive and complementary to the site and its surroundings. Locate parking in a manner that minimizes negative impacts on the community and its pedestrians. Design parking garage exteriors to visually respect and integrate with adjacent buildings and environment.

**Findings:** The following aspects of the proposal successfully address this guideline:

- The proposed parking area is screened from the primary street frontages of the site, which are the south and west frontages which lie along N Alberta St and N Interstate Ave, respectively. This helps to maintain a more-active street wall along these busy streets and primary transit, pedestrian, and bicycle routes.
- Parking access is taken off of N Webster St, which has the lowest traffic, transit, pedestrian, and bicycle classifications of all three frontages. This helps to minimize negative impacts on the community and pedestrians.
- The parking lot is partially tucked under the building, which helps to screen the parking area from adjacent properties. The large trees, described above in Findings for D1 & D3 also help to screen the parking area from adjacent properties.
- The Administrative Decision found that the proposed chain link fence did not adequately screen the parking area from the adjacent properties. The landscape plan on Exhibit C.09 calls this fence out as a 6-foot tall wood fence, and this was proposed in earlier submittals (see Exhibit C.48 – copied from Exhibit A.18). To best screen the parking area and integrate it with existing development, the Administrative Decision found that this wood fence should be used in place of the currently-proposed chain link fence and required a condition of approval to

ensure its construction.

The Design Commission reconsidered the Findings of the Administrative Decision, and a majority of the Commission concluded that the proposed chain link fence, combined with proposed landscaping was sufficient to meet this guideline and determined that a condition of approval requiring a wood fence would not be needed.

*Therefore, this guideline is met.*

**D5. Crime Prevention.** Use site design and building orientation to reduce the likelihood of crime through the design and placement of windows, entries, active ground level uses, and outdoor areas.

**Findings:** The following aspects of the proposal successfully address this guideline:

- The proposed building places windows and entries along all three street frontages. This helps to provide both activity at the building and sidewalk interface and allows for views from the building's interior out onto the sidewalk and street, helping to reduce or prevent crime.
- The active ground floor space at the northwest corner of the site, at the intersection of N Alberta St and N Interstate Ave, with its large storefront windows, will help to provide additional eyes on the street.
- The proposed elevated porches along N Interstate Ave will have railings and a layer of landscape buffering that will help to define the semi-private realm of the porches and encourage their use by residents. This will help to prevent crime by encouraging residents to activate these porches.
- Exterior lighting is proposed around the building's exterior and in the parking area and private outdoor area. This will allow residents and pedestrians to see others on the sidewalks and streets more easily, which will help to reduce the likelihood of crime.
- The Administrative Decision found that large blank, brick walls and opaque doors face both N Interstate Ave and N Alberta St at the ground floor residential dwelling units and that these large opaque areas provide fewer opportunities for "eyes on the street" to help prevent crime. The Administrative Decision found that doors with full lights (glazing) should be provided to increase glazing, and therefore, "eyes on the street", on both street frontages and that, along the N Interstate Ave frontage, sidelights should also be incorporated to provide additional glazing along this important street. The Administrative Decision required a condition of approval to include glazing at these doors as a result.

The Design Commission reconsidered these findings. A majority of the Commission concluded at the June 20, 2019 hearing that providing additional glazing at the doors was not needed to meet this guideline, and the Commission removed the Administrative Decision's condition of approval. Notably, one commissioner dissented and stated that, even if the doors are covered with a curtain, the windows in and around the doors would still give an impression of the space behind being inhabited. This could help to prevent crime near these units.

At the June 27, 2019 hearing, the Commission further reconsidered their earlier findings and determined that at least some additional glazing would be required at the ground-level unit entries to meet this guideline. The Commission therefore moved to retain a portion of the original condition of approval from the Administrative Decision and found that transom windows are needed to satisfy

this guideline. The Commission also moved to add a requirement for light fixtures at each door to fully meet this guideline.

*With the condition of approval that all units on the ground floor shall have a transom window above the door and a light fixture, this guideline will be met.*

### **Quality & Permanence**

**D8. Interest, Quality, and Composition.** All parts of a building should be interesting to view, of long lasting quality, and designed to form a cohesive composition.

**Findings:** The following aspects of the proposal successfully address this guideline:

- Massing of the proposed building is very straightforward, creating a cohesive building form. The building is composed of three primary massing moves—a setback ground floor expression, a taller upper-story mass facing N Interstate, and slightly shorter upper-story masses facing N Alberta St and N Webster St. A recess at the main entry further divides the upper story mass along N Interstate into two smaller components. These masses are further defined by their proposed materials. Metal panels are used at the upper stories and stacked Norman brick is used at the ground floor.
- Facades are patterned with fairly simple variations in the metal panels on the upper stories. Metal panels on the upper stories primarily composed of vertically-oriented ribbed metal panels in a 4” – 1-15/16” alternating ribbed pattern. Accents are provided by horizontal, flat metal bands at each floor, by vertical flat metal panels scattered across the facades, and by color accents on random panels that are also scattered across each façade. These accents are subtle enough so as not to detract from the regular fenestration pattern across the elevations. The recess at the main lobby entrance is also defined separately through the use of horizontally-oriented metal panels with a different rib profile and a darker color. Taken all together, patterning on the facades will provide additional visual interest and will form a cohesive composition.
- Proposed materials include a variety of ribbed metal panels and Norman brick. The latter, brick, is a very durable and traditional material that inherently expresses permanence and quality. Typical window details at the brick, which create a punched opening in the wall, further support the quality of the brick and add visual interest to the ground floor where the brick is used.

Proposed metal panels will be at least 22-gauge thick or thicker and are ribbed. Both characteristics increase the structural rigidity of the panels and will help to reduce pillowing, oil-canning, or warping, increasing the overall quality of the systems. Only one type of accent panel will be thinner than 22-gauge: the ribbed metal panels with the yellow accent color will be a 24-gauge ribbed panel. The ribs are narrow and deep enough, however, that pillowing, oil-canning, and warping should still not be an issue, and these panels will retain the same overall quality and permanence as the rest of the panels.

Commercial grade vinyl windows are proposed at all residential units. These are colored “architectural bronze” to better integrate and recede into the overall composition. Storefront windows at the northwest and southwest corner are also colored in dark bronze to match the residential window color. Both systems have demonstrated long-lasting quality.

- Details provided on Exhibits C.27 through C.36 demonstrate that the proposed materials and systems will be installed in a manner that expresses both quality and visual interest.

*Therefore, this guideline is met.*

### **Modifications**

#### **33.825.040 Modifications That Will Better Meet Design Review Requirements:**

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the design review process. These modifications are done as part of design review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through design review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

- A. **Better meets design guidelines.** The resulting development will better meet the applicable design guidelines; and
- B. **Purpose of the standard.** On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

#### **Modification #1: 33.130.222.C – Façade articulation: To reduce the minimum required amount of façade articulation on the west, street-facing façade from 25% to 24%.**

*Purpose Statement:* These standards, along with the height and setback standards, limit the bulk of buildings close to the street. These standards help ensure that large buildings will be divided into smaller components that relate to the scale and patterns of Portland’s commercial/mixed-use areas and add visual interest and variety to the street environment.

*Standard:*

33.130.222.C, Façade articulation.

1. Where the standard applies. This standard applies in the CM2, CM3 and CE zones as follows:
  - a. In the CM2 and CE zones, the standard applies to buildings more than 35 feet high that have facade areas of more than 3,500 square feet within 20 feet of a street property line.
  - b. In the CM3 zone, the standard applies to buildings more than 45 feet high that have facade areas of more than 4,500 square feet within 20 feet of a street property line.
  - c. Portions of building facades that are vertically separated by a gap of 10 feet in width or more extending at least 20 feet in depth from the street property line are considered to be separate facade areas for the purposes of the facade area measurements. See Figure 130-9.
2. The standard. At least 25 percent of the facade within 20 feet of a street lot line must be divided into facade planes that are off-set by at least 2 feet in depth from the rest of the facade. Facade area used to meet the facade articulation standard may be recessed behind or project out from the primary facade plane, but projections into street right-of-way do not count toward meeting this standard. See Figure 130-10.

- A. **Better meets design guidelines.** *The resulting development will better meet the applicable design guidelines; and*

**Findings:** Proposed façade articulation on the west elevation is composed of a recessed ground floor as compared to the upper stories and a more-deeply recessed vertical area in the façade massing at the building’s main entry. The simplicity of the proposed vertical façade articulation helps to break the apparent massing on the west elevation

into two primary masses, which better approximates the smaller quarter- or eighth-block scale typical of the scale of older commercial buildings along the N Interstate Ave corridor, better meeting Guideline D8 – Interest, Quality, and Composition. The division of the building into two parts also somewhat obliquely references the pattern of motel development that used to be characteristic along this former highway.

It would be possible to increase the width of this recess at the main lobby entry to fully meet the standard; however, this would have had the effect of further reducing the amount of space at the ground floor, likely at the commercial space at the southwest corner of the building. Keeping this space at least as large as currently proposed better meets Guidelines E3 – The Sidewalk Level of Buildings and E4 – Corners that Build Active Intersections by providing a larger area for active uses at the ground floor and at the intersection of most-importance on the site, which is the intersection of N Interstate Ave & N Alberta St.

**B. Purpose of the standard.** *On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*

**Findings:** The purpose of the standard is to help limit the bulk of buildings near the street, to ensure that large buildings will be broken up into smaller components that relate to the scale and patterns of Portland’s commercial/mixed-use areas, and to add visual interest and variety to the street environment. Though slightly below the minimum required standard, the proposal nevertheless breaks up the bulk of the building into smaller components that relate to the patterns of other commercial development along the N Interstate Ave corridor and is, therefore, consistent with the purpose of the standard.

*Therefore, this Modification merits approval.*

**Modification #2: 33.130.235.C – Screening, Mechanical equipment: To reduce the amount of required “L2, low screen” landscaping (which requires trees and continuous three-foot tall evergreen shrubs, in addition to ground cover) around the transformer at the northeast corner of the property. The standard requires “L2, low screen” landscaping along both the N Webster Street lot line to screen the transformer. The applicant proposes no required tree along the N Webster Street lot line.**

**Modification #3: 33.266.130.G.2.d.(1) – Parking area setbacks and landscaping, Perimeter landscaping: To reduce the amount of required “L2, low screen” landscaping (which requires trees and continuous three-foot tall evergreen shrubs, in addition to ground cover) near the transformer at the northeast corner of the property. The standard requires L2 landscaping along both the N Webster Street lot line and east lot line to screen the parking area. The applicant proposes no required tree along the N Webster Street lot line.**

*Purpose Statement for 33.130.235:* The screening standards address specific unsightly features which detract from the appearance of commercial/mixed use areas.

*Standard – 33.130.235.C:* Mechanical equipment. Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators must be screened from the street and any abutting residential zones by walls, fences, or vegetation. Screening must comply with at least the L2 or F2 standards of Chapter 33.248, Landscaping and Screening, and be tall enough to screen the equipment. Mechanical equipment placed on roofs must be screened in one of the following ways, if the equipment is within 50 feet of an R zone:

1. A parapet along facades facing the R zone that is as tall as the tallest part of the equipment;

2. A screen around the equipment that is as tall as the tallest part of the equipment; or
3. The equipment is set back from roof edges facing the R zone 3 feet for each foot of height of the equipment.

*Purpose Statement for 33.266.130:* The development standards promote vehicle areas that are safe and attractive for motorists and pedestrians. Vehicle area locations are restricted in some zones to promote the desired character of those zones. Together with the transit street building setback standards in the base zone chapters, the vehicle area location regulations for sites on transit streets and in Pedestrian Districts:

- Provide a pedestrian access that is protected from auto traffic;
- Create an environment that is inviting to pedestrians and transit users.
- Create a strong relationship between buildings and the sidewalk; and
- Create a sense of enclosure on transit and pedestrian street frontages.

The parking area layout standards are intended to promote safe circulation within the parking area, provide for the effective management of stormwater runoff from vehicle areas, and provide for convenient entry and exit of vehicles. The setback and landscaping standards:

- Improve and soften the appearance of parking areas;
- Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones;
- Provide flexibility to reduce the visual impacts of small residential parking lots;
- Direct traffic in parking areas;
- Shade and cool parking areas;
- Reduce the amount and rate of stormwater runoff from vehicle areas;
- Reduce pollution and temperature of stormwater runoff from vehicle areas; and
- Decrease airborne and waterborne pollution.

*Standard – 33.266.130.G.2.d:* Perimeter landscaping. The minimum setbacks and landscaping standards required are provided in Table 266-5.

- (1) Surface parking abutting streets, and C, E, I, and CI zones. Where a surface parking area abuts a street lot line, or a C, E, I, or CI zone lot line, only the minimum required setbacks must be landscaped. The landscaping must meet the L2 standard of Chapter 33.248, and must be adjacent to the parking area and driveway. Where a setback is provided that is greater than the required minimum, the landscaping must be placed within 25 feet of the edge of the parking area and driveway. To provide connectivity between sites, a single driveway up to 20 feet wide may interrupt the landscaping that abuts a C, E, or I zone lot line.
- (2) Surface parking abutting OS, R, and IR zones. Where a surface parking area abuts an OS, R, or IR zone lot line, only the minimum required setbacks must be landscaped. The landscaping must meet the L3 standard of Chapter 33.248, and must be adjacent to the parking area and driveway. Where a setback is provided that is greater than the required minimum, the landscaping must be placed within 25 feet of the edge of the parking area and driveway.

**A. Better meets design guidelines.** *The resulting development will better meet the applicable design guidelines; and*

**Findings:** The proposal shows a row of Oregon Grapes, large rees, and a 6-foot tall chain link fence along the east lot line, between the transformer and the lot line. The proposed plantings screening the transformer and parking lot along the north street lot line include two varieties of evergreen shrubs: *Lonicera nitida* 'red tips' and *Leucothoe fontanesiana* in a 6-foot deep planted strip. The extra foot of depth over the required 5-foot minimum and the two varieties of evergreen shrubs will help to create a lush landscape screen along the sidewalk, better meeting *Guideline D3 – Landscape Features*.

- B. Purpose of the standard.** *On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*

**Findings:** The purpose of the screening standard is to screen unsightly features which detract from the appearance of commercial/mixed use areas. The purpose of the parking area setbacks and landscaping standard is to reduce the visual impact of parking areas from sidewalks and streets, improve and soften the appearance of parking areas, and shade and cool parking areas, among other purposes. The proposed landscaping along the north street lot line will help to screen the transformer and parking lot from the street, improving the visual appearance of both. The building overhangs at the driveway entry and on the interior of the site will help to provide shading and cooling that the landscape would otherwise need to provide. Taken all together, the proposal will be consistent with the purpose of the standards, on balance.

*Therefore, this Modification merits approval.*

**Modification #4: 33.266.220.C.3.b – Standards for all bicycle parking, Bicycle racks: To reduce the width of required long-term bike parking spaces in the bike parking rooms, which will be mounted vertically on the walls, from 2'-0" to 1'-6", staggered 12" vertically so the handlebars of adjacent bikes do not interfere with each other.**

*Purpose Statement:* These standards ensure that required bicycle parking is designed so that bicycles may be securely locked without undue inconvenience and will be reasonably safeguarded from intentional or accidental damage.

*Standard:* 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. See Figure 266-11.

- A. Better meets design guidelines.** *The resulting development will better meet the applicable design guidelines; and*

**Findings:** The proposed modification request ostensibly reduces the amount of space required to be devoted to bicycle parking on the ground floor of the building, freeing up additional space for more-active uses at the ground floor which will help to increase visual interest along the sidewalk, thus better meeting *Guideline E3 – The Sidewalk Level of Buildings*. While this would typically be true, the proposed relocation of the bike room to the northwest corner of the building since the proposal was submitted significantly undercuts this reasoning, shifting potentially-active ground floor use area back to the interior of the building at the southwest corner retail space. With the condition of approval described above in Findings for P1 & D7 and Findings for E3 to relocate the bike parking room to a location on the interior or non-street-facing façade of the building and to convert northwest corner space to a Ground Floor Active Use area, those guidelines, and particularly Guideline E3, will be better met.

- B. Purpose of the standard.** *On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*

**Findings:** The purpose of the standard is to ensure that required bicycle parking is designed so that bicycles may be securely located without undue inconvenience and that they will be reasonably safeguarded from damage. With a vertical offset of 12 inches, there will be enough room for bikes to hang on the walls without their pedals or handlebars interfering with or damaging one another. This rack spacing has proven to

be successful in numerous other developments in the city and is, therefore, consistent with the purpose of the standard, on balance.

*Therefore, with the condition of approval that the proposed bike storage room at the northwest corner of the building shall be converted into a Ground Floor Active Use space as listed in the "m" overlay zone, PZC section 33.415.200; that the bike parking that is currently proposed in this room shall be located either in individual units or, if on the ground floor, shall be located in an area away from the street-facing facades; and that a storefront entry door shall be placed on the N Interstate Ave frontage of the northwest corner commercial space, this Modification will merit approval.*

## **Adjustments**

### **33.805.010 Purpose**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply citywide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

### **The following adjustment is requested:**

- **33.415.200 – Required Ground Floor Active Use:** Requires that, within 100 feet of a transit street, at least 25 percent of the ground level floor area must be in one of the following active uses. Only uses allowed in the base zone may be chosen: Retail Sales and Service, Office, Industrial Service, Manufacturing and Production, Community Service, Daycare, Religious Institutions, Schools, Colleges, or Medical Centers. The applicant proposes to reduce the amount of required ground floor active use area within 100 feet of a transit street from 25% to 19.3% to allow for residential entry porches, residential units, and a residential bicycle maintenance room to be located on the ground floor.

### **33.805.040 Approval Criteria**

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A through F have been met:

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified.

**Findings:** The purpose statement for Centers Main Street overlay zone in zoning code chapter 33.415 is:

*The Centers Main Street "m" overlay zone encourages a mix of commercial, residential and employment uses on the key main streets within town centers and neighborhood centers identified in the Comprehensive Plan. The regulations are intended to encourage a continuous area of shops and services, create a safe and pleasant pedestrian environment, minimize conflicts between vehicles and pedestrians, support hubs of community activity, and foster a dense, urban environment with development intensities that are supportive of transit.*

The proposed development is located within a Town Center focused on N Killingsworth St and the PCC Cascades campus, as described in the 2035 Comprehensive Plan. The proposed development provides a mix of commercial and residential uses along the N

Interstate Avenue corridor and also helps to foster a dense, urban environment with a higher development intensity than was previously located on the site. Parking for the proposed development is located on the eastern edge of the site, which keeps it away from the more pedestrian-heavy streets of N Interstate Ave and N Alberta St. This helps to minimize conflicts between vehicles and pedestrians and also helps to create a safe and pleasant pedestrian environment.

The proposed commercial use at the southwest corner of the proposed building helps to establish a continuous area of shops and services and affords the opportunity for a hub of community activity to develop on the site. The two ground-level residential dwelling units along the N Alberta St frontage do not interrupt a continuous area of shops and services, as this area is at the edge of the “m” overlay zone, which is focused on the N Interstate Ave corridor. Development to the east of the site consists of single- and small multi-dwelling residential development instead.

The Administrative Decision found that the proposed two ground-level residential dwelling units and proposed bike storage room along the remainder of the N Interstate Ave frontage do, however, interrupt the continuous area of shops and services intended by the “m” overlay. At a bare minimum, to meet the purpose of this standard, the Required Ground Floor Active Uses identified in the “m” overlay need to anchor the corners of the building and site along N Interstate Ave. Any less would not constitute a “continuous area” of such uses. Additionally, while the front porches proposed at the ground-level residential uses could conceivably foster miniature “hubs of community activity”, the proposed bike storage room will not. For these reasons, the Administrative Decision found that a condition of approval to convert the proposed bike storage room to a flexible, active-use space was needed.

At the June 20, 2019 appeal hearing for this case, the Design Commission received testimony in opposition to the findings in the Administrative Decision and concurred that, at a minimum, the Required Ground Floor Active Use standard either needs to be fully met or met, at a minimum, with uses prescribed by the standard at both street-facing corners of the building. Commissioners expanded on the latter finding, stating that programming the corners with active uses and doors significantly enhances the public realm along the entire street. Doing so, in addition to the attractive and well-designed residential porches and entries along N Interstate Ave adds to the notion of vitality on the street, making the porches and the sidewalk more pleasant for both residents of the building and passing pedestrians.

The Administrative Decision further found that the bike parking that is currently proposed at the northwest corner bike parking room could be incorporated within individual dwelling units or shifted back to its original location to the south of the lobby on the east elevation of the building. A storefront entry door should be placed on the N Interstate Ave frontage, too, to better respond to the development pattern of commercial uses along the corridor, and to comply with zoning code requirements. The door currently on the north elevation could remain or be removed. The Design Commission deliberated on whether bike parking should be relocated to the originally-proposed area south of the lobby or if it should be shifted to the east to occupy one or more of the proposed parking spaces. At the June 20, 2019 hearing, commissioners found that there should be some flexibility in relocating the bike parking from the northwest corner, as long as the new location was not along the street-facing facades and as long as the new location did not further reduce the amount of active use floor area on the ground floor.

Shifting bike parking from the northwest corner of the building to an area on the east side of the building and south of the lobby would reduce the size of the commercial space at the southwest corner; however, contrary to the findings in the Administrative Decision,

drawings presented by the applicant at the Design Commission hearing on June 20, 2019 show no net change in Ground Floor Active Use area as opposed to a slight increase in floor area area. Shifting bike parking entirely to within the units or to a new space on the east elevation, occupying one or more of the parking spaces, would increase the Ground Floor Active Use area to approximately 23% of the ground floor area. The Design Commission indicated at the June 20, 2019 hearing that either option could meet the purpose of the standard. A condition of approval is needed to ensure a minimum amount of active use floor area on the ground floor and to relocate the bike parking, and the Commission indicated that condition of approval D from the Administrative Decision should be revised appropriately.

At the June 27, 2019 continued hearing, the Commission again deliberated on this issue, and the majority found that the purpose of the standard would be equally met only if approximately 23% of the ground floor area were programmed as a Required Ground Floor Active Use meeting the standard and that the long-term bike parking would need to be relocated elsewhere within the building, but not in the proposed commercial space at the southwest corner of the building. The Commission moved to retain condition of approval D from the Tentative Findings and to revise the percentage of Ground Floor Active Use to 23% of the ground floor area.

*With the condition of approval that the proposed bike storage room at the northwest corner of the building shall be converted into a Ground Floor Active Use space as listed in the “m” overlay zone, PZC section 33.415.200; that the bike parking that is currently proposed in this room shall be located either in individual units or, if on the ground floor, shall be located in an area away from the street-facing facades; and that a storefront entry door shall be placed on the N Interstate Ave frontage of the northwest corner commercial space; and that the minimum amount of Ground Floor Active Use space shall not be less than approximately 23% of the ground floor area, this approval criterion will be met.*

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area.

**Findings:** Zoning Code Section 33.910 defines desired character as the “preferred and envisioned character (usually of an area) based on the purpose statement or character statement of the base zone, overlay zone, or plan district” and “it also includes the preferred and envisioned character based on any adopted plans or design guidelines for an area.”

CM3 zone character statement: The proposed building is located entirely within the CM3 zone. The character statement of the CM3 zone is stated in zoning code section 33.130.030.D:

*The Commercial/ Mixed Use 3 (CM3) zone is a large-scale zone intended for sites in high-capacity transit station areas, in town centers, along streetcar alignments, along civic corridors, and in locations close to the Central City. It is intended to be an intensely urban zone and is not appropriate for sites where adjacent properties have single-dwelling residential zoning. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to six stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, with buildings that contribute to an urban environment with a strong street edge of buildings. The scale of development is intended to be larger than what is allowed in lower intensity commercial/mixed use zones. Design review is typically required in this zone.*

The proposed development reflects the desired character of development in the CM3 zone with its overall scale and height. The proposed development is pedestrian-oriented, with main entrances to the retail space and the residential lobby that face N Interstate Ave and the MAX light rail line. The ground floor residential units are also pedestrian-oriented with entries that face N Interstate Ave, set behind raised stoops, and N Alberta St, set behind partially-enclosed patios.

However, the proposed bike parking room at the northwest corner of the site does not contribute to the urban environment. The use is almost exclusively a storage use and has little to no active component, other than maneuvering bikes. As discussed at the June 20, 2019 appeal hearing before the Design Commission, rather than placing bike storage at an intersection and facing a light rail line, the bike storage should be relocated to inside the building away from the street-facing facades and without reducing the amount of total Active Use area on the ground floor. The Commission further deliberated on this issue at the June 27, 2019 hearing, and determined that, to best meet this criterion, the proposed commercial use space at the southwest corner of the building should not be reduced in area, and that the bike parking should be relocated elsewhere within the building, as described above in Findings for Criterion A. A condition of approval requiring this change will help to meet this character statement, and this condition has already been added to findings for the Adjustment under the Findings for Criterion A.

Design overlay zone purpose statement: The site is located within the Design overlay zone. The purpose statement of the Design overlay zone is stated in Zoning Code Section 33.420.010:

*The Design Overlay Zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The Design Overlay Zone also promotes quality high-density development adjacent to transit facilities. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review or compliance with Community Design Standards. In addition, design review or compliance with the Community Design Standards ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.*

The proposed development meets the desired character of development in the Design overlay zone through the Design Review approval process. The Findings for the Design Review are included above, and, with conditions of approval, show that the proposed development will meet the approval criteria for this overlay zone.

North Interstate Plan District purpose statement: The site is located within the North Interstate Plan District. The purpose statement of the plan district is stated in zoning code section 33.561.010:

*The North Interstate plan district provides for an urban level of mixed-use development to support the MAX line and the surrounding neighborhoods by encouraging development that increases neighborhood economic vitality, amenities, and services and successfully accommodates additional density. These standards:*

- *Implement urban design concepts of the North Interstate Corridor Plan;*
- *Help ease transitions between new high-density development and the existing, low-density neighborhoods; and*
- *Enhance the pedestrian experience.*

As stated above in the Findings regarding the character of the CM3 zone, the proposal largely enhances the pedestrian experience along N Alberta St and N Interstate Ave.

The proposal is significantly lacking when it comes to enhancing the pedestrian experience along N Webster St, however. The building's frontage along N Webster St is currently devoted entirely to mechanical uses and parking—whether for cars or bikes. These very inactive uses do not enhance the pedestrian experience along this street, despite the proposed mural and windows into the bike parking area. As described above in the Findings relating to the character of the CM3 zone, relocating the long-term bike storage room location within the building and away from the street-facing facades—and converting the northwest corner space to accommodate a Ground Floor Active Use will help to enhance the pedestrian experience along both N Interstate Ave and N Webster St. A condition of approval requiring this change will help to meet this character statement, and this condition has already been added to the findings for the Adjustment under the Findings for Criterion A.

Adopted North Interstate Corridor Plan (2008) urban design concepts: The urban design concepts in the North Interstate Corridor Plan “should be considered as a starting point for the realization of the community’s vision of a vibrant, mixed-use, high-density, urban transit corridor.” This plan identifies several urban design concepts to help guide the character of future development along the North Interstate Avenue corridor. For areas between MAX stations, the urban design concept calls for mixed development, “both in use and scale”. It envisions that “most of these buildings will feature active ground floor uses such as retail shops and stores, capitalizing on the visibility offered by the light rail; others may incorporate offices, building lobbies or institutional uses.”

The proposal partially meets this vision through development of a new mixed-use building, with a ground floor commercial space at the building's southwest corner. This space has large storefront windows which will also help to increase overall residential density along the N Interstate transit corridor. However, the proposal does not adequately activate the ground floor, with parking, bike parking, utilities, and, to some extent, residential uses being placed along the street edge, rather than “active ground floor uses such as retail shops and stores” or “offices” and “institutional uses”. As discussed above, a condition of approval requiring shifting of the long-term bike storage room from the northwest corner of the building to a location internal to the building, and requiring the conversion of the northwest corner space to a Ground Floor Active Use, will help to better activate the ground floor along both N Webster St and N Interstate Ave. At the June 27, 2019 appeal hearing, a majority of the Commission concurred with this finding and further clarified that the relocated long-term bike parking should not be placed into any portion of the space proposed for commercial use at the southwest corner of the building.

Vibrancy at residential units is increased through the addition of setbacks and landscaping at the ground floor units along N Interstate Ave. Though the Administrative Decision found that similar setbacks and landscaping are lacking on the N Alberta St ground floor frontage, the majority of the Design Commission ultimately disagreed and found that the patios along N Alberta St afforded opportunities for vibrancy and interaction between residents and pedestrians.

*With the condition of approval that the proposed bike storage room at the northwest corner of the building shall be converted into a Ground Floor Active Use space as listed in the “m” overlay zone, PZC section 33.415.200; that the bike parking that is currently proposed in this room shall be located either in individual units or, if on the ground floor, shall be located in an area away from the street-facing facades; and that a storefront entry door shall be placed on the N Interstate Ave frontage of the northwest corner commercial space; and that the minimum*

*amount of Ground Floor Active Use space shall not be less than 23% of the ground floor area, this approval criterion will be met.*

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone.

**Findings:** Only one adjustment is requested.

*This criterion does not apply.*

- D.** City-designated scenic resources and historic resources are preserved.

**Findings:** No city-designated scenic resources or historic resources are located on the subject site.

*This criterion does not apply.*

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** As discussed in the Findings for Criterion A and the Findings for Criterion B, the Adjustment request, as originally-proposed, results in too negative an impact on the pedestrian environment and intended character for development along N Interstate Ave and N Webster St. However, as conditioned under Findings for Criterion A and further reinforced through Findings in Criterion B, moving the long-term bike storage space to a location internal in the building and converting the northwest corner space to a Ground Floor Active Use will help to mitigate the impacts of the Adjustment request. The result will be that both corners of the building facing N Interstate Ave will be anchored by the Ground Floor Active Uses desired by the “m” overlay zone and will help, at a bare minimum, to meet the purpose of the standard. A majority of the Commission affirmed these findings at the June 27, 2019 hearing.

*With the condition of approval that the proposed bike storage room at the northwest corner of the building shall be converted into a Ground Floor Active Use space as listed in the “m” overlay zone, section 33.415.200); that the bike parking that is currently proposed in this room shall be located either in individual units or, if on the ground floor, shall be located in an area away from the street-facing facades; and that a storefront entry door shall be placed on the N Interstate Ave frontage of the northwest corner commercial space; and that the minimum amount of Ground Floor Active Use space shall not be less than 23% of the ground floor area, this approval criterion will be met.*

- F.** If in an environmental zone, the proposal has a few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** The subject site is not located within an environmental zone.

*This criterion does not apply.*

## **DEVELOPMENT STANDARDS**

Unless specifically required in the approval criteria listed above, this proposal does not have to demonstrate conformance with all 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 via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

At the June 27, 2019 Design Commission hearing, Commissioners voted 3-2 to adopt tentative findings, with some revisions, which would deny the appeal of the Overlook Neighborhood Association, partially grant the appeal of Martin Segura, and uphold the remainder of the Administrative Decision, thereby approving the Design Review, requested Modifications, and the Adjustment Review for the proposal. The Findings, above, describe the reasons for this decision in detail. The Commissioners who voted against approving the proposal and who supported the appeal of the Overlook Neighborhood Association focused their dissent entirely on the ground floor in both the proposal's lack of response to some of the applicable design guidelines and in dissent to the requested Adjustment.

The design review process exists to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The Design Commission finds that, with conditions, this proposal meets the applicable design guidelines, modification criteria, and adjustment criteria and, therefore, warrants approval.

## DESIGN COMMISSION DECISION

Deny the appeal of the Overlook Neighborhood Association, partially grant the appeal of Martin Segura, and uphold the Administrative Decision with revisions to the findings by the Design Commission, thereby approving the proposal of Design Review for the proposed 72,732 SF, 6-story residential mixed-use building with 64 dwelling units in the North Interstate Plan District.

Approval of four (4) Modification requests to zoning code development standards:

- 1) 33.130.222.C – Façade articulation: To reduce the minimum required amount of façade articulation on the west, street-facing façade from 25% to 24%.
- 2) 33.130.235.C – Screening, Mechanical equipment: To reduce the amount of required “L2, low screen” landscaping (which requires trees and continuous three-foot tall evergreen shrubs, in addition to ground cover) around the transformer at the northeast corner of the property. The standard requires “L2, low screen” landscaping along both the N Webster Street lot line to screen the transformer. The applicant proposes no required tree along the N Webster Street lot line.
- 3) 33.266.130.G.2.d.(1) – Parking area setbacks and landscaping, Perimeter landscaping: To reduce the amount of required “L2, low screen” landscaping (which requires trees and continuous three-foot tall evergreen shrubs, in addition to ground cover) near the transformer at the northeast corner of the property. The standard requires L2 landscaping along both the N Webster Street lot line and east lot line to screen the parking area. The applicant proposes no required tree along the N Webster Street lot line.
- 4) 33.266.220.C.3.b – Standards for all bicycle parking, Bicycle racks: To reduce the width of required long-term bike parking spaces in the bike parking rooms, which will be mounted vertically on the walls, from 2'-0" to 1'-6", staggered 12" vertically so the handlebars of adjacent bikes do not interfere with each other.

Approval of one (1) Adjustment request to zoning code development standards:

- 1) 33.415.200 – Required Ground Floor Active Use: To reduce the amount of required ground floor active use area within 100 feet of a transit street – which N Interstate Avenue and N Alberta Street are – from 25% to approximately 23% of the total ground floor area.

All approvals per the approved site plans, Exhibits C-6 through C-48, signed and dated 04/29/2019, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through H) 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 18-277183 DZM AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. 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.
- C. No field changes allowed.
- D. The proposed bike storage room at the northwest corner of the building shall be converted into a Ground Floor Active Use space as listed in the "m" overlay zone, PZC section 33.415.200; the bike parking that is currently proposed in this room shall be located either in individual units or, if on the ground floor, shall be located in an area away from the street-facing facades; a storefront entry door shall be placed on the N Interstate Ave frontage of the northwest corner commercial space; and the minimum amount of Ground Floor Active Use space shall not be less than 23% of the ground floor area.
- E. All units on the ground floor shall have a transom window above the door and a light fixture.

**These findings, conclusion and decision were adopted by the City of Portland Design Commission on June 27, 2019.**

By: \_\_\_\_\_

  
**Julie Livingston, Chair**

Decision Rendered: 06/27/2019

Decision Filed: 06/28/2019

Decision Mailed: 07/11/2019

**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 **December 12, 2018**, and was determined to be complete on **February 12, 2019**.

*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 **December 12, 2018**.

*ORS 227.178(1)* 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 requested that the 120-day review period be extended 21 days (see Exhibits G.14 and G.16). Unless further extended by the applicant, **the 120 days will expire on: July 3, 2019**.

**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 is final and becomes effective the day the notice of decision is mailed (noted above). This decision may not be appealed to City Council; however, it may be challenged by filing a “Notice of Intent to Appeal” with the State Land Use Board of Appeals (LUBA) within 21 days of the date the decision is mailed, pursuant to ORS 197.620 and 197.830. A fee is required, and the issue being appealed must have been raised by the close of the record and with sufficient specificity to afford the review body an opportunity to respond to the issue. For further information, contact LUBA at the 775 Summer Street NE, Suite 330, Salem, OR 97301 [Telephone: (503) 373-1265].

**Recording the final decision.**

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

- The final decision will be recorded after **July 12, 2019** 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 Submittals

1. Original Proposal Narrative, dated 12/12/2018
2. Neighborhood Meeting Summaries, dated 12/12/2018
3. Original Drawing Set, dated 12/03/2018
4. PHB Funded affordable housing project verification memo, dated 11/19/2018
5. Pre-application Conference Facilitator Summary Memo (EA 18-183051 PC), dated 07/31/2018
6. Completeness Response memo, dated 01/14/2019
7. Neighborhood Contact Requirement evidence, dated 01/04/2019 and received 01/14/2019
8. Revised Proposal Narrative, dated 01/14/2019
9. Modification Request Narrative, dated 01/14/2019
10. Revised Drawing Sheets, received 01/14/2019
11. Revised Completeness Response memo, dated 02/04/2019
12. Revised Proposal Narrative, dated 02/04/2019
13. Revised Drawing Sheets, dated 02/04/2019
14. Application for Adjustment Review, received 02/04/2019
15. Adjustment Review Narrative, dated 02/04/2019
16. Drawing Set for Adjustment Review, dated 12/03/2018 and received 02/04/2019
17. Revised North Elevation, received 02/12/2019
18. Revised Drawing Set, dated 12/03/2018 on the cover and received 02/13/2019
19. Revised Elevation Drawings, received 03/01/2019
20. Exhaust Louver Details, received 03/01/2019
21. Light Fixture Cut Sheets, received 03/01/2019
22. Building program marketing materials, received 03/18/2019
23. Revised Site Plan, received 03/20/2019
24. Revised Proposal Narrative, dated 04/01/2019 and received 04/02/2019
25. Revised Completeness Response memo, dated 04/02/2019
26. Revised Adjustment Review Narrative, dated 04/22/2019
27. Revised Drawing Set, dated 04/02/2019

#### B. Zoning Map (attached)

#### C. Plans/Drawings:

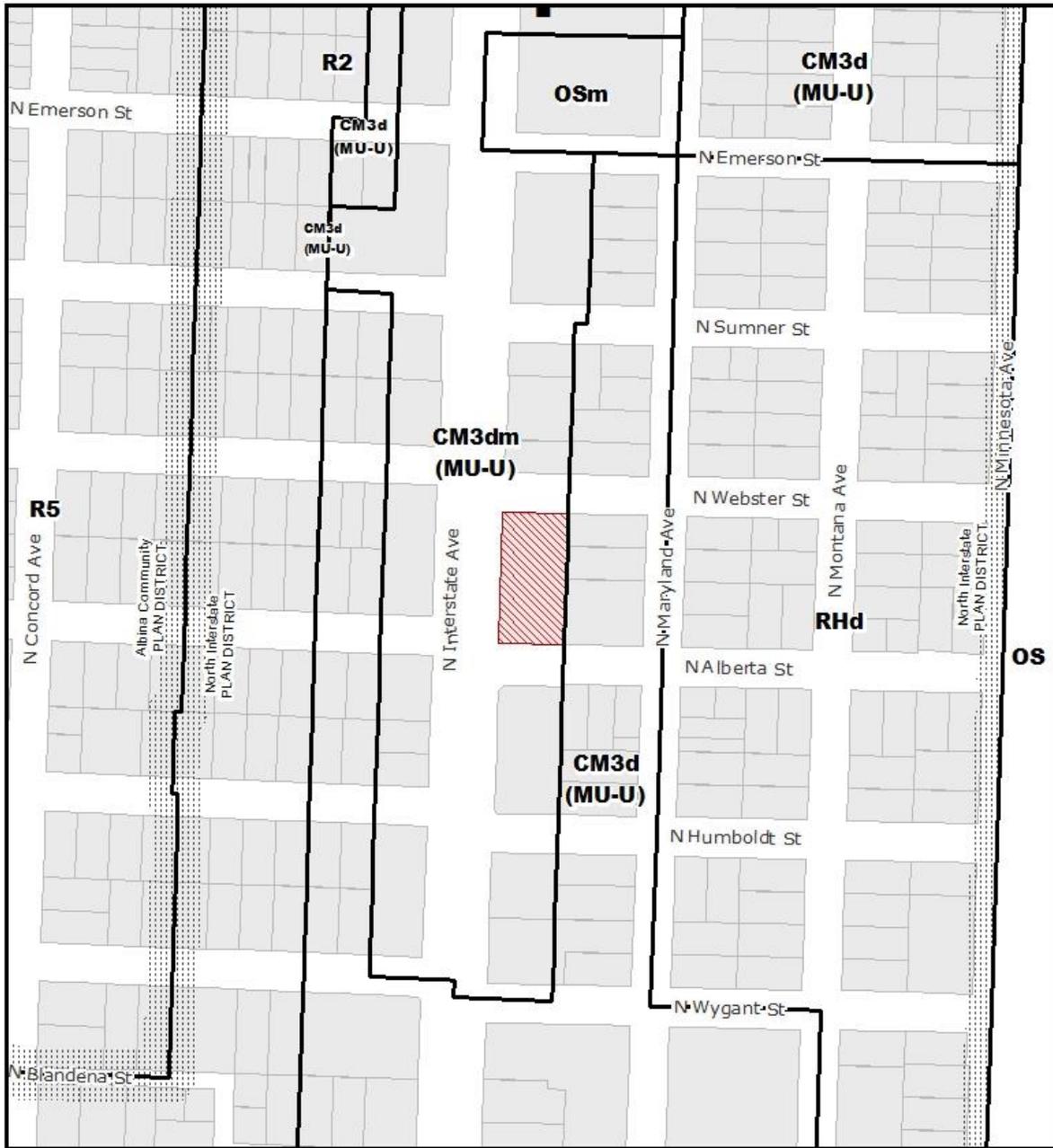
- 1-5. *Not used.*
6. Grading Plan
7. Utility Plan
8. Tree Plan
9. Planting Plan
10. Planting Plan Legend
11. Plant Selection
12. Plant Selection
13. Site Furnishings
14. Site & Ground Floor Plan (attached)
15. Typical Floor Plan – Levels 2 through 6
16. Roof Plan

17. Bicycle Storage
  18. West Elevation (attached)
  19. South Elevation (attached)
  20. East Elevation (attached)
  21. North Elevation (attached)
  22. Building Section N-S
  23. Building Section E-W
  24. Engl Elevations & Wall Sections
  25. Engl Elevations & Wall Sections
  26. Details – Site & Landscape
  27. Details – Site & Landscape
  28. Details – Exterior
  29. Details – Storefront
  - 29a. Details – Storefront
  30. Details – Storefront
  31. Details – Windows
  32. Details – Exterior
  33. Details – Exterior
  34. Details – Windows
  35. Details – Exterior
  36. Details – Exterior
  - 37-40. *Not used.*
  41. Exterior Lighting Plan
  42. Product Cutsheets
  43. Product Cutsheets
  44. Product Cutsheets
  45. Product Cutsheets
  46. Product Cutsheets
  47. Product Cutsheets
  48. Details – Site & Landscape (cedar site fence)
- 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. Water Bureau
  4. Fire Bureau
  5. Site Development Review Section of BDS
  6. Bureau of Parks, Forestry Division
  7. Life Safety Section of BDS
- F. Correspondence:
1. Christian Trejbal, Chair of the Overlook Neighborhood Association Board, 03/11/2019, letter in opposition to the requested Adjustment
  2. Brad Lucas, Arbor Lodge Neighborhood Association Land Use Committee member, 03/12/2019, letter of contingent support for proposal
  3. Brad Lucas, Arbor Lodge Neighborhood Association Land Use Committee member, 03/15/2019, letter providing additional details about other recent and/or new developments in and near the Arbor Lodge neighborhood
- G. Other:
1. Original LU Application
  2. Incomplete Application Letter, sent 12/28/2018
  3. Email chain among applicant and city staff re: Transportation and Parking Demand Management requirements, 01/03 – 01/08/2019
  4. Staff follow-up memo to Incomplete Application Letter, sent 01/14/2019

5. Applicant request to reverse refund of fees, received 01/14/2019
  6. Email chain between applicant and staff re: 01/14/2019 follow-up memo
  7. Email from staff to applicant re: clarifications and corrections to Incomplete Application Letter and other design-related issues, sent 01/17/2019
  8. Email chain between applicant and staff re: completeness items, 01/29 – 01/30/2019
  9. Email chain between applicant and staff re: revised submittals and adjustment fee, 02/04 – 02/07/2019
  10. Email chain between applicant and staff re: north elevation, 02/02 – 02/12/2019
  11. Written request to deem the application complete, received 02/12/2019
  12. Email chain between applicant and staff re: design issues, 02/27 – 03/08/2019
  13. Staff Response to Brad Lucas's second letter, sent 03/15/2019
  14. Signed Request for Extension of 120-Day Review Period (adding 10 days), received 03/18/2019
  15. Email with proposed breakdown of affordable and market-rate dwelling units, received 03/18/2019
  16. Signed Request for Extension of 120-Day Review Period (adding 11 days), received 04/02/2019
- H. Appeal Hearing Exhibits
1. Administrative Decision, 5/3/2019
  2. Appeal Filing – Overlook Neighborhood Association (Christian Trejbal, Chair), 05/13/2019 at 11:45 AM
  3. Appeal Filing – Martin Segura III, Carleton Hart Architecture, PC, 05/17/2019 at 11:41 AM
  4. Notice of Appeal Mailing List
  5. Notice of Appeal, sent 05/22/2019
  6. Appellant #2/Applicant request to reschedule appeal hearing and staff response, 05/24 – 05/29/2019
  7. Revised Drawing Package submitted by Appellant #2/Applicant, 06/06/2019
  8. Written testimony: Paul De Vecchio, 06/11/2019
  9. Written testimony: Jim Gardner, 06/13/2019
  10. Staff Memo to the Design Commission, 06/13/2019
  11. Written testimony: Owen Gabbert, 06/17/2019
  12. Written testimony: David Sweet, 06/17/2019
  13. Staff email to Appellant #1 with appeal hearing presentation order and Appellant #1 reply, 06/17 – 06/18/2019
  14. Staff email to Appellant #2/Applicant with appeal hearing presentation order, 06/17/2019
  15. Email thread between Appellant #2/Applicant and staff re: appeal hearing presentation order, 06/18 – 06/19/2019
  16. Written testimony: Mary Vogel, 06/18/2019
  17. Written testimony: Deborah Stein, 06/19/2019
  18. Written testimony: Daniel Valliere, 06/19/2019
  19. Written testimony: Doug Klotz, 06/19/2019
  20. Written testimony: Julia Metz, 06/19/2019
  21. Written testimony: Neal Sacon, 06/19/2019
  22. Written testimony: Tyler Koski, 06/19/2019
  23. Written testimony: Jessica Woodruff, 06/19/2019
  24. Written testimony: Jackie Keogh, 06/19/2019
  25. Written testimony: Marita I. DeLeon, 06/19/2019
  26. Written testimony: Tyler Roppe, 06/19/2019
  27. Type II Decision LU 18-277183 DZM AD Applicant Response, received 06/19/2019 and dated 06/20/2019
  28. Written testimony: Thomas Karwaki, 06/20/2019
  29. Written testimony: Victor Caesar, 06/20/2019
  30. Written testimony: Travis Phillips, 06/20/2019

31. Written testimony: Diane Coward, 06/20/2019
32. Written testimony: Diane Linn, 06/20/2019
33. Written testimony: Aaron Brown, 06/20/2019
34. Written testimony: Gabriele Hayden, 06/20/2019
35. Written testimony: Mary Vogel, 06/20/2019
36. Staff Presentation to the Design Commission, 06/20/2019
37. Appellant #1 Presentation to the Design Commission, 06/20/2019
38. Appellant #2/Applicant Presentation to the Design Commission, 06/20/2019
39. Appellant #1 Response Presentation to the Design Commission, 06/20/2019
40. Type II Land Use Appeal – Testifier Sheet, 06/20/2019
41. Tentative Findings, Conclusion and Decision of the Design Commission, 06/26/2019

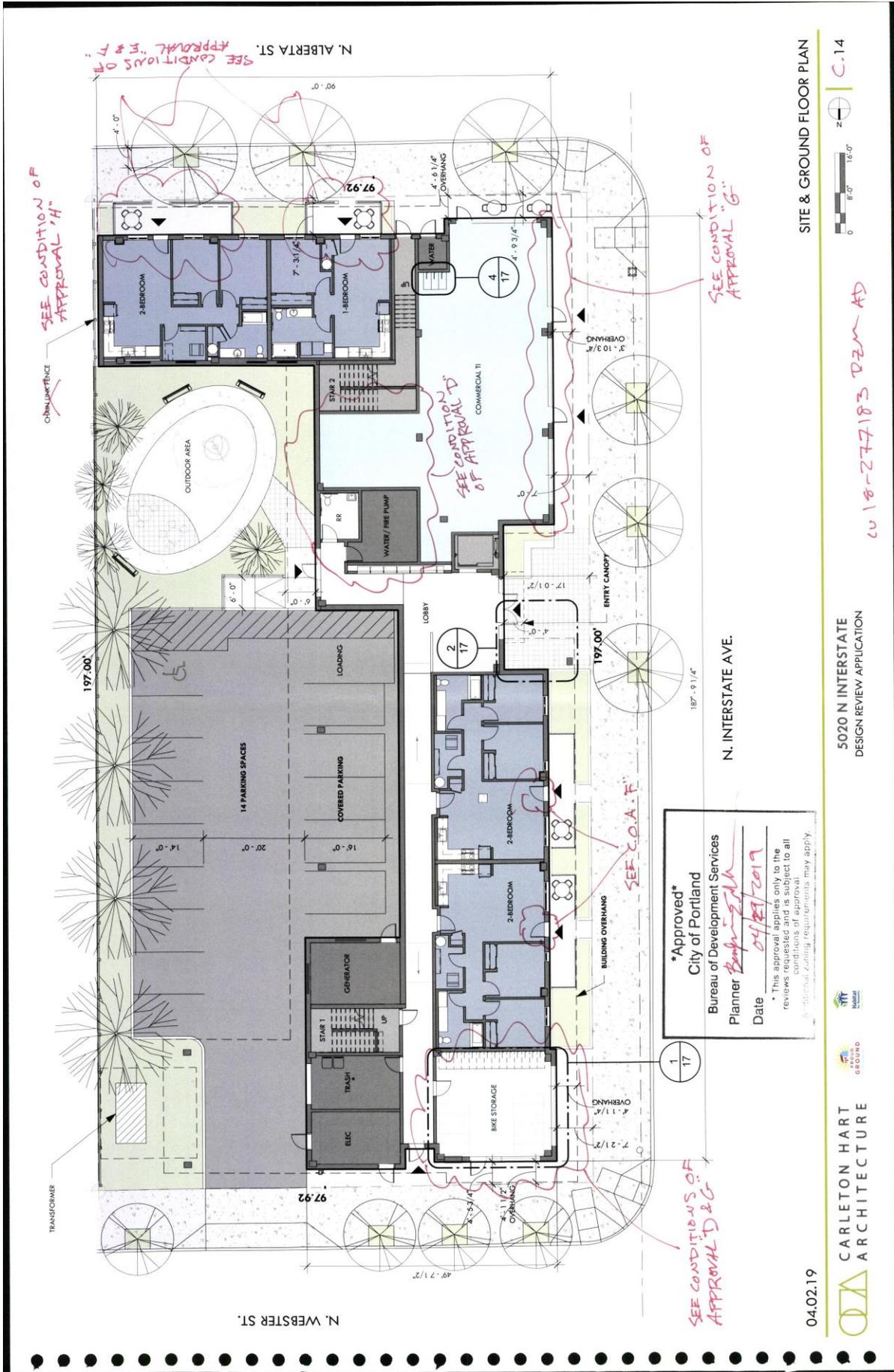
**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**



**ZONING**   
 NORTH  
 THIS SITE LIES WITHIN THE:  
 NORTH INTERSTATE PLAN DISTRICT

 Site  
 Historic Landmark

File No. LU 18-277183 DZM AD  
 1/4 Section 2529  
 Scale 1 inch = 200 feet  
 State ID 1N1E22BB 13800  
 Exhibit B Feb 12, 2019



SITE & GROUND FLOOR PLAN

0 8'-0" 16'-0" z C-14

CU 18-277183 DZM AD

5020 N INTERSTATE DESIGN REVIEW APPLICATION



CARLETON HART ARCHITECTURE

04.02.19

\*Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner Bong W. Park  
 Date 04/27/2017

\* This approval applies only to the reviews requested and is subject to all applicable zoning requirements may apply.





GLAZED AREA = 1,369 SF  
 TOTAL WINDOW AREA = 6,591 SF  
 TOTAL FACADE AREA = 21%



**\*Approved\***  
 City of Portland  
 Bureau of Development Services  
 Planner *Benjamin*  
 Date *04/24/19*  
 \*This approval applies only to the reviewed address and is subject to all reviewed conditions of approval.  
 04.02.19

SOUTH ELEVATION

C.19

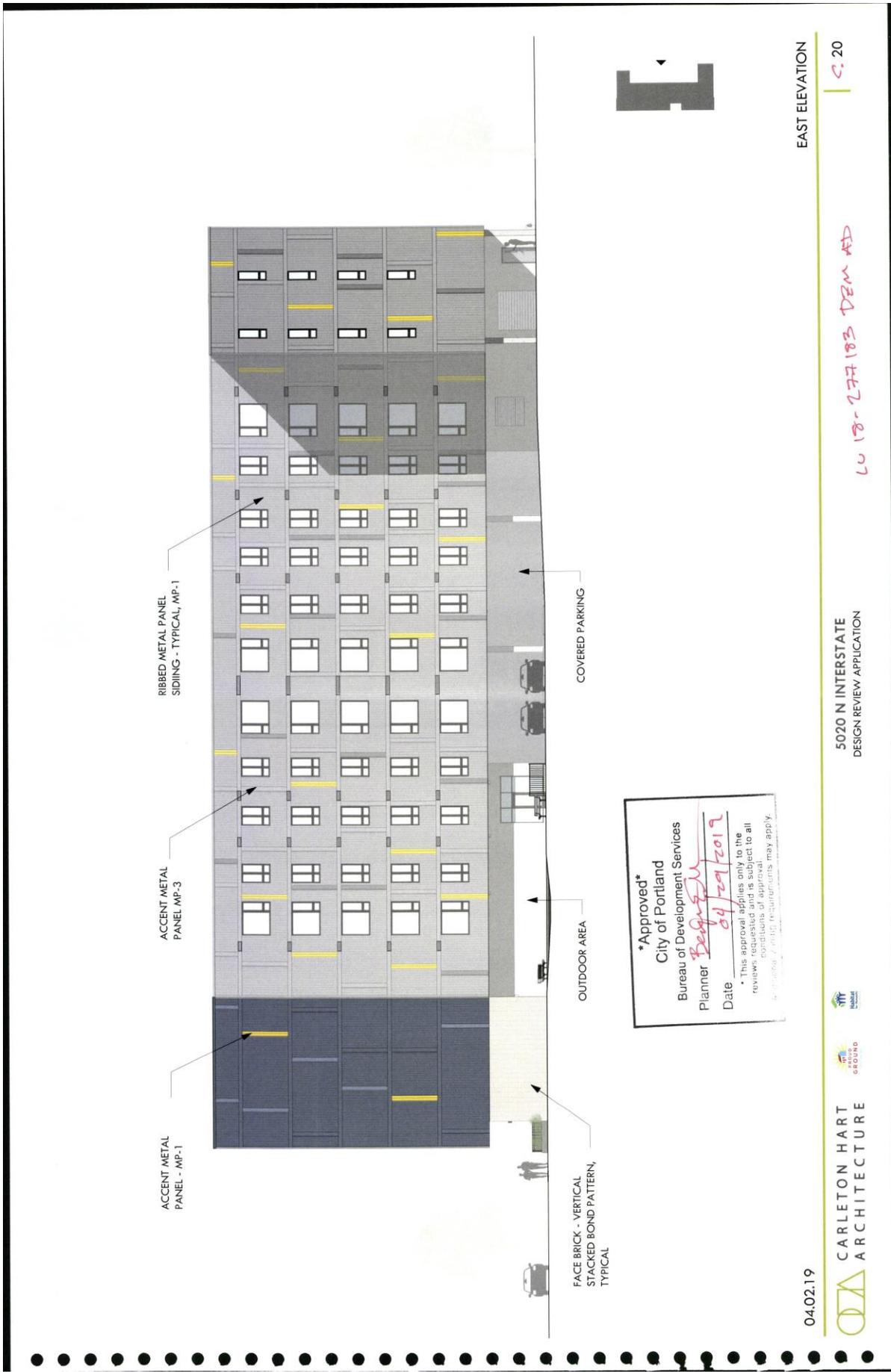
1018-277193 DEM AD

5020 N INTERSTATE  
DESIGN REVIEW APPLICATION



CARLETON HART  
ARCHITECTURE





ACCENT METAL PANEL - MP-1

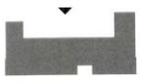
ACCENT METAL PANEL MP-3

RIBBED METAL PANEL SIDING - TYPICAL, MP-1

FACE BRICK - VERTICAL STACKED BOND PATTERN, TYPICAL

OUTDOOR AREA

COVERED PARKING



**\*Approved\***  
 City of Portland  
 Bureau of Development Services  
 Planner *Benjamin*  
 Date *04/29/2019*

\* This approval applies only to the reviews requested and is subject to all conditions of approval may apply. [www.portland.gov/bds](http://www.portland.gov/bds)

EAST ELEVATION

04.02.19



CARLETON HART ARCHITECTURE



5020 N INTERSTATE  
DESIGN REVIEW APPLICATION

*LU 18-277183 DEM AD*

*C. 20*

