



## **STAFF REPORT AND RECOMMENDATION TO THE DESIGN COMMISSION**

**CASE FILE:** LU 19-204560 DZM AD  
 PC # 19-157911  
*Dairy Apartments*

**REVIEW BY:** Design Commission

**WHEN:** November 21, 2019; 1:30pm

**WHERE:** 1900 SW Fourth Ave., Room 2500A  
 Portland, OR 97201

**Bureau of Development Services Staff:** Hannah Bryant 503-823-5353 / [Hannah.Bryant@portlandoregon.gov](mailto:Hannah.Bryant@portlandoregon.gov)

The following Staff Report recommends *denial* of the proposed Design Review and denial of multiple Modification requests.

### **GENERAL INFORMATION**

**Applicant:** Chris Hodney | Hacker Architects  
 1615 SE 3rd Ave, Suite 500  
 Portland, OR 97214

**Owner:** NBP Sunshine LLC  
 9 NE 3rd Ave, Suite 100  
 Portland, OR 97214

**Site Address:** **801 NE 21ST AVE**

**Legal Description:** BLOCK 34 LOT 1-8 LAND & IMPS SEE R646167 (R806102451) & R657804 (R806102452) FOR MACH & EQUIP, SULLIVANS ADD

**Tax Account No.:** R806102450

**State ID No.:** 1N1E35AD 02400

**Quarter Section:** 2932

**Neighborhood:** Kerns, contact Elliott Mantell at [commonchiro@yahoo.com](mailto:commonchiro@yahoo.com)

**Business District:** None

**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010.

**Plan District:** None

**Other Designations:** None

**Zoning:** CM3d – Commercial Mixed-use 3 with a Design overlay

**Case Type:** DZM AD – Design Review with Modifications and an Adjustment

**Procedure:** Type III, with a public hearing before the Design Commission. The decision of the Design Commission can be appealed to City Council.

**Proposal:**  
 The applicant is seeking Design Review approval for a 7-story, 271-unit residential structure on the full block site occupied by the former Sunshine Dairy building. A single full-block

parking level is proposed underground, with access from NE Oregon St to the south. Two Type B loading spaces will be provided at the parking garage level. The applicant requests an Adjustment to reduce the total vehicular parking required from 240 to 90. Modifications are requested to increase height, reduce ground floor window area, increase façade articulation, and reduce the spacing of long-term bike racks on site and to allow planting area between the sidewalk and the street.

Design Review is required for non-exempt development in the Design Overlay zones.

Modification reviews are required when the design proposes an alternative to a prescriptive zoning code standard.

Modification requests [PZC 33.825.040]:

1. Height (33.130.210). Increase the height limit 5' above the 75' height limit, to allow an overall maximum building height of 80';
2. Ground Floor Windows (33.130.230.B). Reduce the ground floor window requirement from 40% to 0% at the West façade, and from 25% to 0% at the East façade for the above grade wall area of the underground parking level;
3. Façade Articulation (33.130.222.C). Reduce the required percentage of offset façade area from 25% to 10% on the north and south elevations;
4. Bicycle Parking (33.266.220.C.3.b.). Decrease the width of bicycle rack spacing from 24" to 18" width with a vertical stagger;
5. Improvements within transit street maximum building setbacks (33.130.215.D.2). Along 20th Avenue, reduce the required hardscape area within the setback at the sidewalk level from 50% to 28%.

Adjustment request [PZC 33.805]:

Minimum Required Parking Spaces [PZC 33.266.110]: Requires 240 vehicle parking spaces. The applicant proposes 90 vehicle parking spaces, plus 70 additional bike parking spaces; 9 motorcycle parking spaces; 2 car-sharing parking spaces; 1 bike sharing dock with additional bikes provided.

**Relevant Approval Criteria:**

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

- 33.825.040 - *Modifications that Better Meet Design Review Requirements*
- Community Design Guidelines

## ANALYSIS

**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.

**Land Use History:** City records indicate there are no relevant land use reviews for this site.

**Agency Review:** A “Notice of proposal in Your Neighborhood” was mailed **October 23, 2019**. The following Bureaus have responded with no issue or concerns:

- Water Bureau (exhibit E.1)
- Fire Bureau (exhibit E.2)
- Site Development Section of BDS (exhibit E.3)
- Bureau of Environmental Services (exhibit E.4)
- Life Safety (exhibit E.6)

The Bureau of Transportation Engineering responded with the following comment: Numerous other reviews are required related to the driveway grade, utility vault and access control mechanism. Until these elements are reviewed and approved by PBOT, the applicant proceeds at their own risk. PBOT has approved the requested Adjustment to reduce minimum parking. Please see Exhibit E.5 for additional details.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **October 23, 2019**.

A total of seven written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

- Chiapuzio, Kurt. October 31, 2019 – Does not support an Adjustment to reduce parking or reduced lighting standards.
- Heffernan, DJ / Sullivan’s Gulch Neighborhood Association. October 25, 2019. The neighborhood association supports the inclusion of affordable housing. It supports the Adjustment to reduce parking.
- Shea, Samuel. November 5, 2019 – Concerns about development city-wide; does not support an Adjustment to minimum parking.
- Valladeros, Tomas. August 14, 2019 - Does not support an Adjustment to reduce parking.
- Willard, Angelique. October 31, 2019 – Does not support an Adjustment to reduce parking.
- Winters, Jodi. October 29, 2019 – Does not support an Adjustment to reduce parking.
- Winters, Ryan. October 31, 2019 – Does not support an Adjustment to reduce parking or reduced lighting standards.

## PROCEDURAL HISTORY

This proposal elected to have a voluntary Design Advice Request (DAR) on June 27, 2019. At the DAR, the Commission agreed that the height and massing were supportable and contextually appropriate, and that the primary cladding material was high-quality and attractive. Commissioners agreed that the ground floor should be 2 ½ - 3 feet above adjacent sidewalk grade, and that ground floor heights of 4 – 5 feet above adjacent sidewalks were not supportable.

The Land Use application was submitted on August 5, 2019 and deemed complete on October 1, 2019. A hearing was scheduled for November 21, 2019 – 51 days after being deemed complete.

## 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. Responses to the Design Guidelines are addressed by "Three Tenets of Design Review": 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 and D7:** The site falls within the Kerns Neighborhood Plan Boundary, a planning document adopted in 1997, and just beyond the mapped Kerns Neighborhood Center adopted in the Urban Design Framework. The area was one of the first developments on Portland's east side due to its immediate adjacency to NE Sandy, which was an early thoroughfare for settlers and commuters from the East. Grocers, vendors, and general trade developed along Sandy and spurred supporting warehousing, and worker housing in the growing commercial and light industrial district.

The site is also notably located at the intersection of a break and shift of the urban grid caused by Sullivan's Gulch. The gulch was created over millennia by the Lake Missoula floods and receding water which formed the Columbia River Gorge. This landform has impeded traditional development and the settlers, residents, and the City have creatively used the gulch in over time in the evolution of the neighborhood. Now, it is

used for the I-84 freeway, private rail, the MAX line, and is planned to hold a future multi-use pedestrian and bicycle path (Sullivan's Gulch Trail).

### Massing

The building has a strong, unified composition that is legible at all scales. Its clearly defined massing utilizes a few simple gestures to create forms that respond to site conditions at multiple scales while simultaneously breaking from the standard rectilinear modules. The result is eye catching but not attention seeking. The color and form are a deferential backdrop to the small Telegraph Building.

The proposal responds to the area's cultural and physical characteristics at numerous scales. The overall massing is split into 2 slab-form towers, oriented north to south to reinforce 20<sup>th</sup> and 21<sup>st</sup> Avenues as primary street frontages, and to frame the entry to the Kerns neighborhood from the North. These upper volumes rest on a full-block podium, which holds the street edge at all sides and relates to lower scale light industrial buildings. The massing splits above this datum to break the monumental scale and inflects along NE 20<sup>th</sup> and NE 21<sup>st</sup> Avenue to minimize the impact of shadow created by the height of the structure. A 52'-11" wide space between the towers is skewed and biased off-center to effectively frame the Telegraph building and acknowledge the offset block structure on either side of the bridge. The central courtyard references the pattern of nearby garden apartments and the green space typical of blocks ringed by low density residential structures. A regular rhythm of windows reinforces larger massing moves and echoes a regularized structural rhythm of contextual industrial and office buildings.

The shape, orientation, and massing of the building are designed to reflect the existing built typology, while reinforcing the prominence of the site as a gateway into the Kerns neighborhood. The new building responds to the history and architectural character of the area through a contemporary expression of the streamline modern style.

The consistency of material application and the simplicity and clarity of the massing, result in a quality, cohesive proposal. *These guidelines are met.*

### **P3. Gateways.** Develop or strengthen the transitional role of gateways identified in adopted community and neighborhood plans

**Findings for P3:** The site is not a designated gateway identified in any adopted community or plan or code. However, it does mark an entry to a distinct neighborhood. The Fire-Alarm Telegraph Building sits monumentally on the triangular site immediately north of the property, facing south-bound traffic on the 21st Avenue Bridge. In front of the Telegraph Building, NE 20<sup>th</sup> and NE 21<sup>st</sup> Avenues merge, and the street grid shifts slightly west. Automotive, pedestrian, bicycle, and future public transit traffic all converge and shift around the site. Traffic is diverted around the Telegraph building onto NE 20<sup>th</sup>, and cyclists and pedestrians are diverted to NE 21<sup>st</sup>. This diversion of traffic has made the Telegraph Building an iconic marker within the city, and effectively a gateway to the Kerns Neighborhood. Due to the low scale of the Telegraph Building, the proposal will be highly visible, and has the opportunity to reinforce the edges of this gateway. The overall massing of 2 towers frames the Telegraph Building and entry to the Kerns neighborhood from the North, with the lobby entrance at the northwest corner of the building anchoring a presence on NE 20<sup>th</sup>.

The shape, orientation, and massing of the building are designed to reinforce the prominence of the site as a gateway into the Kerns neighborhood. This is a

neighborhood location appropriate for an iconic building that enhances the identity of the place with notable and unique architecture. *This guideline is 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.

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

**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.

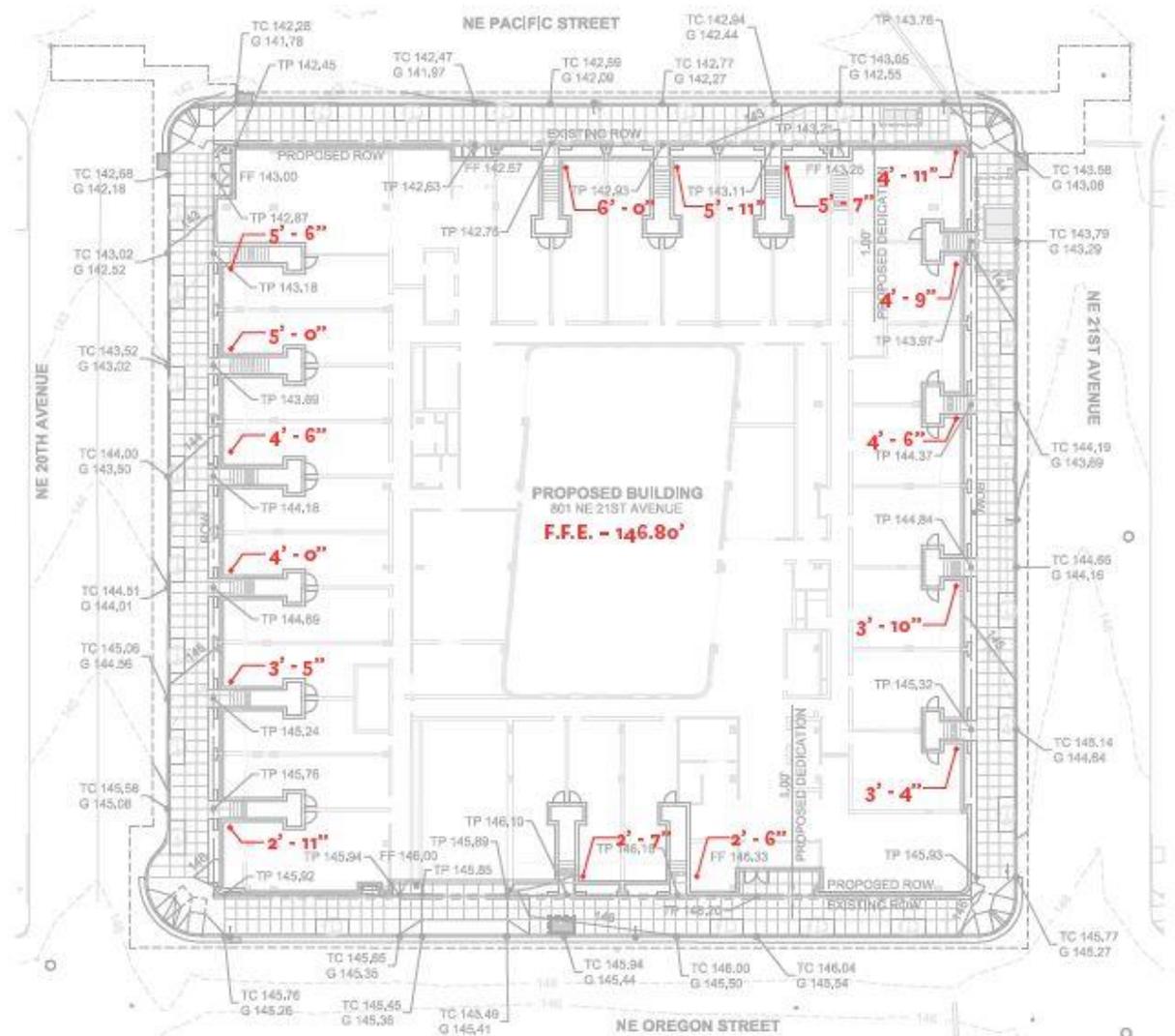
**D5. Crime Prevention.** Use site design and building orientation to reduce the likelihood of crime through the design and placement of windows, entries, active ground level uses, and outdoor areas.

**Findings for E1, E2, E3 and D5:** The proposal is almost exclusively residential at the ground floor. The desired privacy of ground floor units, combined with three feet of grade change across the site, result in recessed porches fronting the sidewalk that range from 2'-6" to 6' above the sidewalk. While an attractive, thoughtful plant palette is proposed to mitigate this inactive, opaque wall condition at the ground floor, the height of the porches above the sidewalk creates an uncomfortable, inactive frontage for pedestrians.

Staff has worked with the applicant to study and analyze numerous ground floor residential conditions throughout the city. We all agree that a raised, deep front porch fronted by diverse, layered landscaping for all units is critical to providing a buffer for both residents and pedestrians, so each feels they have some space and a sense of privacy. However, finding the balance between these proportions, as well as considering the height of the proposed building and the unique traits of adjacent street frontages, will vary for each site depending on its unique conditions and the height and massing of the proposal.

In this situation, rather than front stoops, which typically project in front of building wall, the proposal is for recessed, enclosed porches with a six-story building coming out to the property line above. This tall volume overhead impacts the pedestrian's experience on the sidewalk, and intensifies the need for an active, welcoming, human-scaled ground level. While the proposal has achieved the residents' desired privacy for its ground floor units, it does so at the expense of the public realm.

At the Design Advice Request, the Commission stated that porch heights should be 30-36 inches above the sidewalks, and not more than that. As shown in exhibit C-27 (image below), only three of the sixteen ground floor units are within this range. Nine of the porches are 54-72" above the sidewalk. With the addition of a painted railing at the front of each porch, and the eight-foot entry gates between porches, the perceived wall height for the pedestrians is greater than just the porch elevation.



Crime Prevention

The primary and secondary entrances to the building are appropriately sited at its most significant corners. The primary entrance at the northwest corner is designed to include a co-working space, with opportunity for micro retail such a coffee kiosk adjacent to the lobby entrance. The secondary lobby entrance at the southeast corner capitalizes on the visibility of northbound traffic and is closest to the frequent transit on Sandy Boulevard. However, locating the leasing office – a use with limited hours and staffing - at the corner of this southeast secondary lobby reduces the opportunity for crime prevention that could be provided if this corner were accessible to the tenants of the building’s 271 units.

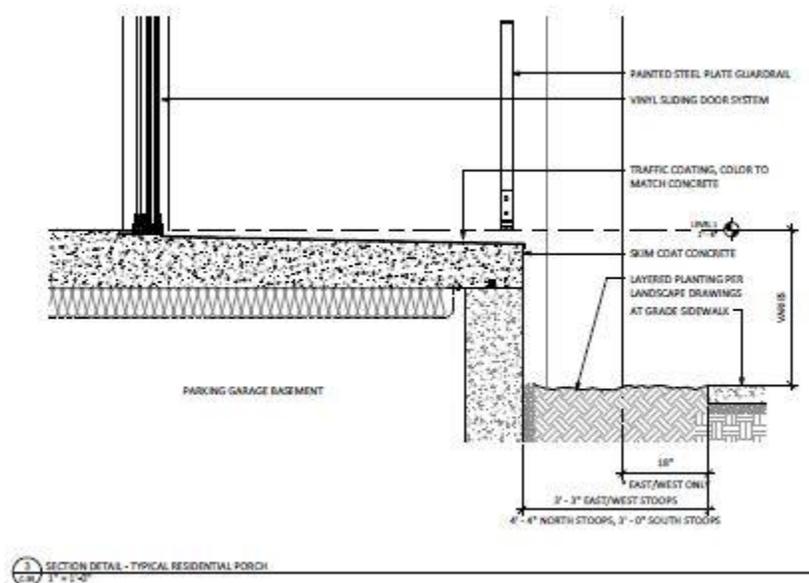
As discussed above, the high porch heights of the first-floor units result in limited visibility of the sidewalk realm. From within the units, there is little to no visibility of the adjacent sidewalks. The height of the floor plates, the tall gates at the residential entries and the depth of the landscaping work together to limit visibility and discourage interaction between the public realm and private outdoor spaces.

### Stopping Places

In consideration of the qualities of each of these street frontages, the publicly accessible commercial spaces provided on site, and the goal of maintaining tenant privacy, Staff and the applicant agree that benches may not be an appropriate element to locate outside of private units. However, to meet this guideline without providing physical resting spaces, it reinforces the need for private residential porches to be at a height where interaction with neighbors passing by is convenient. At the porch heights proposed, the architecture discourages pedestrians from looking up into private porches, and it is physically uncomfortable to have a prolonged conversation.

### Landscape Buffer

Section Detail 3, on Exhibit C-35 (below) demonstrates that the landscape buffer provided between the sidewalk and the front wall of the raised porch varies from 39” to 52”. The landscape palette proposed includes evergreen plantings with year-round interest. Winter flowering, fragrant and hardy plants are chosen with consideration for the lighting condition of each frontage. However, staff has concerns that of the planting area proposed, 18” on both the east and west façades are in the right-of-way and therefore can only have grasses or ground covers planted. This reduces the opportunity for meaningful, layered plantings that adequately mitigate the height of the proposed porches.



At the southwest and northeast corners, the ground floor corner units lack any landscape buffer along one side. The lack of any buffer between the building and the sidewalk realm virtually guarantees that blinds will be kept closed. More development is needed to ensure equitable living conditions for residents of these units and a comfortable, attractive environment for pedestrians walking by.

### Suggestions for Revisions

Staff suggests that a combination of the following strategies may be utilized to enhance the public realm and lower the maximum porch height to 36” without reducing quantity of units:

- *The floor plate may be lowered on the northern half of the building to match the floor plate of the commercial tenant space at the northwest corner. The units on the north frontage (NE Pacific) are currently six feet above the sidewalk. Lowering*

*these units may create opportunity for work-live spaces with mezzanines at the rear.*

- *Lowering the floor plate across the building would provide eight-foot deep porches on the south frontage. While not elevated above the sidewalk, Staff feels that this depth, on the least active pedestrian frontage could facilitate high-quality, sunny outdoor spaces for the residents with deep landscape buffers.*
- *Reducing the depth of the front porch on the tallest porches may provide sufficient space for a second tier of raised planter.*

Further revision is needed to reduce the ground floor heights, and to soften and mitigate the remaining inactive wall planes at the ground level. Emphasis on the public realm is needed to ensure that this building sets a high-quality precedent in this active, rapidly densifying neighborhood. The sloped site adds complexity, but also presents a great opportunity to develop a range of models for excellent ground floor residential units. Successful units will achieve the necessary vertical, horizontal and landscape separation between the private and public realm to facilitate safe, attractive and comfortable places that encourage interaction and community if desired.

*These guidelines are not yet 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.

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

**Findings for E4 and D2:** The intersection of NE 21st and Pacific create a highly visible corner for people crossing Sullivan’s Gulch into this neighborhood. The proposal celebrates this corner with softly curving angles to mimic the dynamic movement of cars and bikes past the site. At the street level, the northwest corner is the lowest point of the site and is occupied by a public-access Work Lounge amenity space activated by a ‘pop-up’ retail tenant. The north lobby has two entrances – one facing NE Pacific Street and a second facing the future transit street at NE 20<sup>th</sup> Avenue. A high percentage of glazing facilitates visibility of the activity within. Unlike the north units, the floor height of the commercial space is even with the adjacent sidewalk, resulting in high ceilings and enhancing the prominence of this corner. A secondary lobby entry, lounge, and leasing offices reinforce the quieter pedestrian and bikeway at the southeast corner. *These guidelines are 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 for E5:** Canopies are provided at the main entrances at the north and south facades. First floor residential entrances are recessed, and therefore protected by the overhang of the upper stories above. Canopy coverage is not provided over the right-of-way outside the residential units or along the storefront of the ground level lobby and commercial space.

It appears that additional canopies could be added at the same height as the one proposed above the north entrance, within the storefront bays outside the northwest commercial space without impacting the design. In consideration of the future transit line proposed on NE 20<sup>th</sup> Avenue adjacent to this site, as well as the new pedestrian district designation for this area, more canopy coverage is necessary. *This guideline is not yet 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 and D3:** The site is proposed to be fully built upon. A residential amenity courtyard at the center of the building is located on the roof of the parking level, where the massing is broken in response to the street grid. The shared courtyard and landscaped areas are activated by shared building amenity spaces on either side.

At the public level, a planting area is located in front of all private first floor porches and the public sidewalk. The planting area ranges from 39-52" deep, depending on the frontage, which is sufficient to allow layered plantings of evergreen shrubs and grasses. The plant palette chosen for each frontage will enhance the pedestrian realm with year-round interest and is responsive to the varying solar exposure of each façade.

Low concrete retaining walls in front of the planting area provide additional layered buffers on some frontages. The exposed vertical wall of the parking garage below the front porches is proposed to be skim coated and painted black to create a discrete backdrop for the diverse plantings. Finally, lighting in the recessed porches and entries both accentuates the architecture of the ground level and contributes some ambient lighting to the pedestrian environment. *Therefore, these guidelines are 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 for D4:** All parking is accommodated in a single level of underground parking. Two (2) Type B Loading spaces are accommodated in the level of below grade parking. The location of loading spaces below grade facilitates resident moving without impacting the on-street parking or resulting in a second vehicular access point into the building. Access to the garage is taken from the south along NE Oregon Street, a local service street, to prevent potential conflicts between bikes and pedestrians. A Driveway Design Exception has been approved by the Portland Bureau of Transportation to locate the vehicle access door close to the property line to create a continuous street edge. As a zero-lot-line project, the building's street edge orientation and formalized massing adequately convey a sense of urban enclosure. The parking garage gate is a vertical lift gate, clad in the perforated, weathering steel panels used at the residential porch gates. The use of a matching material enhances the coherency of the building and reduces the impact of the inactive vehicle entry on the pedestrian experience. *This guideline is met.*

## Quality and 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 for D8:** The folded and perforated interlocking 20-gauge weathering steel is of sufficient thickness to prevent denting or warping due to weather conditions. The applicant has tested and documented the material's ability to be repaired after scratches and graffiti. Exposed concrete beneath first floor porches is proposed to be skim coated and painted black. This is a common finish material throughout the surrounding historic warehouse and light industrial area. Similarly, the vertically aligned, stacked windows on the upper stories have deep punches which are

accentuated by the depth and texture of the primary metal cladding material. The regular, punched windows are typical of this area, where warehouses and manufacturing facilities were often designed to maximize natural lighting.

The material is consistent with the concept diagram for the building, which is derived from the carving and flowing of the Missoula Floods that formed Sullivan’s Gulch. The irregular folded pattern of the metal siding is intended to represent the eroded and carved basalt cliffs formed by the Missoula Floods. The sculpted, weathering material evolves over time in response to natural conditions and age and is intended to evoke the light industrial uses from which this neighborhood evolved. *This guideline is met.*

### **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.

*Staff has considered grouped the first two Modifications. While two different code standards are proposed to be Modified, the findings are common to both.*

**MODIFICATION 1 - Height (33.130.210). Increase the height limit 5’ above the 75’ height limit, to allow an overall maximum building height of 80’.**

**MODIFICATION 2: Ground Floor Windows (33.130.230.B). Reduce the ground floor window requirement from 40% to 0% at the West façade, and from 25% to 0% at the East façade for the above grade wall area of the underground parking level.**

**Purpose Statement for Height (33.130.210):** The height limits are intended to control the overall scale of buildings. The height limits in the CR and CM1 zones allow buildings that are in scale with low rise residential areas. The height limits in the CM2 and CE zones allow for a greater building height at a scale that can accommodate the growth intended for centers and corridors, while relating to the low- to mid-rise scale of neighborhood residential areas. The CM3 zone allows the tallest buildings outside the Central City and Gateway plan districts, consistent with its intended role in accommodating higher-density development in areas well served by transit and other services. The CX zone allows the tallest buildings in the commercial/mixed use zones, consistent with its intended role in accommodating high density development in the Central City and the Gateway plan districts.

In some situations, step downs in maximum height provide a transition in scale to adjacent lower-scale residential areas, and preserve opportunities for light, air and privacy. Exceptions to height limit standards accommodate minor projections that do not significantly increase the visual scale of buildings; provide flexibility in the height of parapets and railings to facilitate rooftop outdoor spaces and equipment screening; and accommodate ground-floor spaces with high ceilings to encourage ground-floor commercial uses, mechanical parking, and other uses that benefit from high ceilings.

**Standard for Height (33.130.210):** The base height standards for all structures, except detached accessory structures, are stated in Table 130-2. The base height limits can be increased through options described in Section 33.130.212. The maximum height with bonus in the CM3 zone is 75’.

**Purpose Statement for Ground Floor Windows (33.130.230.B) :** In the commercial/mixed use zones, blank walls on the ground level of buildings are limited in order to:

- Provide a pleasant, rich, and diverse pedestrian experience by connecting activities occurring within a structure to adjacent sidewalk areas, or allowing public art at the ground level;
- Encourage continuity of retail and service uses;
- Encourage surveillance opportunities by restricting fortress-like facades at street level; and
- Avoid a monotonous pedestrian environment.

**Standard for Ground Floor Windows (33.130.230.B):** Windows must cover at least 40 percent of the ground floor wall area of street-facing facades that are 20 feet or closer to a street lot line or a publicly-accessible plaza. For the purposes of this standard, ground floor wall areas include all exterior wall areas from 2 feet to 10 feet above the finished grade and include openings in the walls of structured parking.

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

**Findings for both Height and Ground Floor Windows:** The modification to increase the height of the building is not yet approvable. If the ground floor plane is lowered, and all guidelines are met, then this additional height modification to support tall ground floor ceilings and reduced ground floor windows *may* be supportable. The additional 5’ of height requested is not resulting in an additional floor to the building but facilitates a taller ground level that is a more proportional base for a tall building and facilitates more active uses. This additional height will be especially beneficial at the northwest corner, where a primary residential lobby and co-working space are wrapped in tall windows that allow views into this active space from NE 20<sup>th</sup> Avenue. At this time, it is unclear whether a ground floor window modification would be necessary if the floor plate is lowered to the 30-36” above grade that was suggested at the Design Advice Request.

*These Modifications do not better meet guidelines E3 – The Sidewalk Level of Buildings or E1 – The Pedestrian Network.*

- 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 for both Height and Ground Floor Windows:** Height limits are created to set a balance between anticipated density along areas well served by transit and other public services, and the existing built environment. The CM3 zone allows the tallest buildings outside the Central City and Gateway plan districts, consistent with its intended role in accommodating higher-density development in areas well served by transit and other services.

If the pedestrian realm benefits from a taller ground floor with substantial glazing, views of active interior uses, and opportunities for interaction with occupants of the private porches, the purpose of this code standard may be met with the additional 5’ of

requested height. With ground floor porch heights of four to six feet above the sidewalk, just behind the street lot line, this Modification exacerbates the building's impacts on light, air and privacy at the sidewalk level.

The ground floor window standards are intended to ensure pedestrian views into active interior spaces. They prevent a monotonous pedestrian experience or fortress-like buildings. Ground floor window requirements are greater for portions of the wall adjacent to non-residential spaces, versus the exterior walls of ground floor residential units. However, the vertical wall between the sidewalk and the raised porches is not the wall of the residential unit and is therefore subject to the ground floor window standard for walls adjacent to non-residential spaces. Due to the substantial height of the residential porches, this solid wall plane does not facilitate surveillance, and contributes to an inactive, monotonous pedestrian experience.

*These Modifications do not meet the purpose of the standards. The impact of additional height and the reduced glazing would result in a pleasant, rich or diverse pedestrian experience or respond to, and enhance, the adjacent residential uses.*

**MODIFICATION 3 – Façade Articulation (33.130.222.C). Reduce the required percentage of offset façade area from 25% to 10% on the north and south elevations.**

**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:** *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.*

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

**Findings:** The shape, orientation, and massing of the building are designed to reinforce the prominence of the site as a gateway into the Kerns neighborhood. This is a neighborhood location appropriate for an iconic building that enhances the identity of the place with notable and unique architecture. The overall massing is split into 2 linear towers, oriented north to south to reinforce 20<sup>th</sup> and 21<sup>st</sup> as primary active streets, framing the entry to the Kerns neighborhood from the North. This is a substantial massing move that breaks down the bulk of the building along the street. The towers are oriented north to south to reinforce 20<sup>th</sup> and 21<sup>st</sup> avenues as the primary active streets, and to effectively create a visual gateway to pedestrians, cyclists, and drivers approaching from the north. The linear forms bend in, further articulating the form into half-block scale facades, enriching the play of light and shadow in the gateway.

The primary facade material is a vertically oriented, bent, weathered metal, presenting an urban, contemporary façade palette. The metal panel features shallow corrugations which result in a stable panel, resistant to deformation, that exude the stability of a permanent object. The façade is broken into vertical modules, unifying the overall building in a color and material palette that is cohesive and subdued. This material articulation works to cohesively integrate all components into the overall composition. The design draws on the quality of nearby buildings with the reflection of their simple, articulated massing, and better meets *Guideline D8. Interest, Quality and Composition.*

- 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 standard is intended to ensure large buildings are 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. The proposal achieves the desired articulation without the regular push and pull patterning typical of many comparable projects. The result is a more unified, coherent massing derived from a strong concept and responsive to surrounding complex.

*Therefore, this Modification merits approval.*

**MODIFICATION 4 – Bicycle Parking (33.266.220.C.3.b.). Decrease the width of bicycle rack spacing from 24” to 18” width with a vertical stagger.**

**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.

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

**Findings:** The purpose of the bicycle parking standard is to provide safe and convenient places to park vehicles (33.266.200) and to avoid undue damage to stored bicycles. The proposed reduction in width of required spaces from 24” to 18” with a vertical stagger, allows more bicycles to be stored within a certain area. The proposed reduction has been shown through numerous approved developments as sufficient for ensuring protection of stored bicycles. The proposed modification better meets Design Review guidelines related to neighborhood character and pedestrian realm as the decreased spacing enables more bicycles to be stored on site, in turn promoting greater bicycle activity in the area. Facilitating the efficient use of bicycle storage spaces better meets guidelines *E1 – The Pedestrian Network*.

- 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 encouragement of active transportation options increases bicycle and pedestrian travel over the use of private vehicles. Encouraging increased cycling is conducive to making it a primary means of transportation which in turn contributes to a safer and more vibrant pedestrian environment. In addition, consolidating the bicycle parking into this space helps avoid the need to introduce additional bicycle parking in ground floor street-facing spaces of the building which are currently designated for more active and visually interesting uses. Preserving active spaces at the ground level contributes to a more vibrant streetscape, meeting the purpose of the standard.

*Therefore, this Modification merits approval.*

**MODIFICATION 5 – Improvements within transit street maximum building setbacks (33.130.215.D.2). Along 20<sup>th</sup> Avenue, reduce the required hardscape area within the setback at the sidewalk level from 50% to 28%.**

**Purpose Statement:** The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial/mixed use zones. The setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air, and the potential for privacy for adjacent residential zones.

The front setback requirements for Civic Corridors in Eastern and Western pattern areas provide opportunities for additional pedestrian space and separation from the vehicle traffic along these major streets to create an environment for building users and pedestrians that is less impacted by close proximity to traffic and provide opportunities for front landscaping reflective of the vegetated characteristics of these neighborhood pattern areas.

The minimum building setbacks along local service streets adjacent to residential zones work together with requirements for step downs in building height (33.130.210.B.2.b.) to ensure that there is a transition in street frontage characteristics to lower scale residential zones. In these situations, the building setback regulations promote street frontages with landscaping and residential uses to provide a transition and a cohesive street environment with similar street frontage characteristics on both sides of the street and limit exterior display and storage to minimize impacts to nearby residentially-zoned areas.

**Standard:** Along transit streets, at least 50 percent of the setback area between the street lot line and the portion of the building that complies with the maximum building setback must be hard surfaced for use by pedestrians. Buildings entirely in a residential use are exempt from this standard.

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

**Findings:** The privacy requirements of residential uses result in unique and complex challenges when located at the ground level. In this situation, the proposal strives to utilize landscaping in the form of raised planters and layered landscaping, as a mitigation for the privacy constraints of its ground floor program. To enhance the sidewalk realm, and to screen the opaque front porch walls, landscape treatment is proposed between the sidewalk and all residential porches, including in the right of way frontage zone and in the recessed areas between vertical piers.

Without the landscaping, the proposal would have exposed vertical concrete walls below the porches, varying in height from 30-72” above the sidewalk. The landscaping is a critical mitigation for this condition and better meets guideline *E3. The Sidewalk Level of Buildings* by creating visual interest along the sidewalk.

**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 building setback standards promote streetscapes that are consistent with the desired character of the commercial/mixed use zones. The CM3 zone allows a wide range and mix of commercial, residential uses, and employment uses. The associated setbacks encourage new development to be built close to the sidewalk to reinforce a pedestrian oriented streetscape. The ground level design creates a desirable

residential street frontage while cultivating a street environment that is inviting to pedestrians, meeting the purpose of the standard.

*Therefore, this Modification merits approval.*

### **33.805.010 Adjustments**

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:**

**Minimum Required Parking Spaces [PZC 33.266.110]: Requires 240 vehicle parking spaces. The applicant proposes 90 vehicle parking spaces, plus 70 additional bike parking spaces; 9 motorcycle parking spaces; 2 car-sharing parking spaces; 1 bike sharing dock with additional bikes provided.**

### **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 of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking. Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long-term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.

The zoning code (PCC Title 33) has different parking standards for sites which are “close to transit” than for sites which are “far from transit.” The zoning code defines a site as “close to transit” if it is within 1,500 feet of a transit station or 500 feet or less from a transit street with 20-minute peak hour transit service. Sites which do not meet the definition of “close to transit” are “far from transit.” The subject site does not meet the zoning code definition of “close to transit” and is therefore “far from transit” for the purposes of determining required parking. The zoning code requires 1 vehicle parking space per dwelling unit when “far from transit.” For buildings which are “close to transit” as defined in the zoning code and are meeting the on-site or off-site affordable dwelling unit requirements of 33.245, no on-site vehicle parking is required (33.266.110.D) The subject proposal includes meeting the on-site affordable dwelling unit requirements of 33.245 but is approximately 1 block further from transit than the zoning code allows in order to be fully exempt from vehicle parking. For buildings

which are “close to transit” and are paying into the inclusionary housing fund instead of meeting the on-site or off-site affordable dwelling unit requirements of 33.245, parking is required at the rate of 0.33 spaces per unit for sites with 51 or more dwelling units. The applicant proposes applying the 0.33 spaces per unit ratio to the residential units, which would require 90 vehicle parking spaces for the proposed 271 dwelling units. As submitted, the design review plans show 92 vehicle parking spaces, which accounts for the small retail space on the ground floor in addition to the residential units.

The subject site is approximately 800 feet (3 blocks) north of NE Sandy Blvd. which is a transit street with transit service at intervals of 20-minutes or less 7-days a week from 5:00 am to 1:00 am. Transit typically comes at 15-minute intervals on NE Sandy Blvd. The subject site is also approximately 800 feet (3 blocks) south of NE Multnomah St, which is a transit street with peak hour transit service at intervals of 20-minutes or less. NE 20<sup>th</sup> Ave. is designated as a transit street, but bus service is not yet available on this segment of NE 20<sup>th</sup> Ave. Tri-Met does have a planned route “Y” which will provide service on NE 20<sup>th</sup> Ave. as shown in the TriMet North Central Service Enhancement Plan: Final Map. Staff can find no record of Line Y having received funding to date. As such, staff analysis will rely on existing transit service only.

The applicant submitted a transportation study prepared by Kittelson & Associates, Inc, a professional traffic consulting firm. The study was prepared by Julia Kuhn, who is a registered professional traffic engineer. This study was reviewed and accepted by PBOT’s development review traffic engineer. The applicant’s parking analysis is available as exhibit A.3, and the associated PBOT comments are exhibit E.2.

*For these stated reasons, the approval criterion is 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:** *This criterion does not apply.*

- 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:** *One adjustment is requested; therefore, this criterion does not apply.*

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

**Findings:** *This criterion does not apply.*

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

**Findings:** PBOT staff is charged with implementing the adopted Transportation System Plan (TSP) and has looked to the TSP for guidance regarding the subject adjustment request. Staff recognizes the request will have a substantial impact on the on-street parking supply in the study area, even if the parking generation is lower than 1 space per unit as suggested by the *Parking Generation Manual 5<sup>th</sup> Edition*. However, the TSP appears to support the requested adjustment with a variety of adopted policies.

First, the TSP establishes multiple policies that are intended to prioritize transportation modes other than passenger vehicles. The most directly stated policy is on page 19,

where the TSP establishes a transportation strategy for people movement in Policy 9.6. This policy reads as follows:

Implement a prioritization of modes for people movement by making transportation system decisions according to the following ordered list:

- Walking
- Bicycling
- Transit
- Fleets of electric, fully automated, multiple passenger vehicles
- Other shared vehicles
- Low or no occupancy vehicles, fossil-fueled non-transit vehicles

This ordered list firmly places passenger vehicles, especially the low occupancy vehicles typical of daily commutes, at the bottom of the priority list. It is possible to prioritize modes other than autos in this location due to the area characteristics. As noted above, the site is in an area with a dense grid of fully interconnected paved roadways with complete sidewalks. The TSP transit classification descriptions repeatedly use ¼ mile as the recommended spacing for bus stops on multiple level of transit classifications. This is equivalent to 1,320 feet. Reliable transit service with 15 to 20-minute intervals is available within a reasonable 800-foot walk both north and south of the site. The area contains a mix of commercial development interspersed with residential. These are the types of environments which generally encourage modes of travel other than just auto travel.

The TSP addresses desired mode splits and states that by 2035, the City's goal is to increase the mode share of daily non-drive alone trips to 70% in the inner neighborhoods (Policy 9.49). The subject site is in an inner neighborhood. Reducing accommodations for private vehicles is one pathway to spur movement toward these mode split goals. If it is difficult to find accommodation for your private vehicle, it is less likely private vehicles will be used.

The TSP also gives clear direction regarding vehicle parking beginning on Page 33. Multiple parking policies state the City should be striving to reduce parking demand and increase the mode share of other modes. Policy 9.58 is most directly relevant to the subject adjustment request and reads as follows:

Off-street parking: Limit the development of new parking spaces to achieve land use, transportation, and environmental goals, especially in locations with frequent transit service. Regulate off-street parking to achieve mode share objectives, promote compact and walkable urban form, encourage lower rates of car ownership, and promote the vitality of commercial and employment areas. Use transportation demand management and pricing of parking in areas with high parking demand. Strive to provide adequate but not excessive off-street parking where needed, consistent with the preceding practices. (Policy 9.58)

The proposed adjustment is very closely aligned with Policy 9.58 and with the purpose statement of 33.266.110. The site is in an area with frequent transit service within an 800 foot walk south of the site. Transit service with 20-minute intervals is also available approximately 800 feet north of the site. The terrain in the area is relatively flat and the roadway and sidewalk networks are complete making walking and bicycling viable options. The applicants are proposing the use of the City's Pre-Approved Multimodal incentives for Residential and Mixed-Use Development (17.107) as mitigation for the proposed adjustment. As documented in the transportation study outlined above, the applicant is striving to provide adequate parking to serve their anticipated demand. The zoning code requirement to provide a vehicle parking space

for each dwelling unit would likely provide more on-site parking than would be needed or used, which the TSP discourages. Exactly how much on-site parking is “adequate” is very difficult to determine.

There are no definitive resources which predict exactly how much parking a future use of a site will require. The applicant is requesting an adjustment to provide 0.33 spaces per dwelling, which is less than the *Parking Generation Manual 5<sup>th</sup> Edition* predicts will be generated. It is equivalent to the what the applicant states is likely to be successfully rented to tenants.

The City code Staff could identify which has addressed this topic is the minimum parking requirement in zoning code section 33.266.110- Minimum Required Parking Spaces. As noted above, the site does not meet the zoning code definition of “close to transit” but is well served by transit within a reasonable walk. Based on the regulations of 33.266.110, if the site was 300 feet south or 300 feet north, the project would require zero off street parking spaces. Allowing an adjustment to the parking requirements to allow zero off street parking spaces seems difficult to justify in light of the TSP policy stating we should, “strive to provide adequate but not excessive off-street parking where needed.” The zoning code does provide a parking ratio between zero spaces per unit and 1 space per unit. This is the parking ratio applied to sites close to transit which are not providing on-site or off-site affordable housing units. The parking ratio the zoning code requires in those instances is 0.33 spaces per dwelling unit for a building with 51 or more units. Staff concurs this is a reasonable parking rate to apply to the project based on the analysis above.

City Council made a clear statement regarding vehicle parking by passing zoning regulations which do not require off-street parking for most of the sites in this area. The site falls into a small pocket which does not meet the zoning code definition of “close to transit” but is still a reasonable walk to transit which operates 20 hours a day, 7 days a week. The recently adopted Transportation System Plan (TSP) includes a transportation strategy which firmly de-emphasizes the role of automobiles in moving people. Additionally, the TSP establishes the City’s mode split goal of increasing the mode share of daily non-drive alone trips to 70% in the inner neighborhoods by 2035. Furthermore, the TSP off-street parking policy states, “Limit the development of new parking spaces to achieve land use, transportation, and environmental goals, especially in locations with frequent transit service.” (Policy 9.58)

Together, these adopted city policies de-emphasize accommodations for vehicles and establish a position of tolerance for on-street parking impacts that result from infill development. Like many of the higher density portions of the City, on-street parking is constrained in this area at certain times of day. Zoning which encourages infill development and increases in density is expected to create added impacts to on street parking. In this case, the applicants have demonstrated adequate on-street supply exists in the study area to absorb the demand from their project, even at the zoning code required 1 space per unit standard which is unlikely to be the actual parking rate. The true impact to on -street parking is anticipated to be less than the study suggests. The project will have a positive effect by returning an estimated 15 parking spaces to the on-street supply through the removal of existing ruck loading zones. Although there will be an impact to the on-street parking supply from the project, based on the above policy analysis, the impacts are determined to be acceptable and PBOT supports the requested adjustment.

*For these stated reasons, the approval criterion is 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:** *This criterion does not apply.*

*The relevant Adjustment criteria are met, and therefore the Adjustment merits approval.*

## DEVELOPMENT STANDARDS

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

## CONCLUSIONS

The design review process exists to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. Walkable, positive pedestrian environments are critical to the vitality of the City. The excessive heights of first floor porches at the back of the sidewalk result in solid walls fronting the pedestrian realm for much of the frontage. The proposal does not yet meet the applicable design guidelines or modification criteria for multiple modifications and therefore does not yet warrant approval.

## TENTATIVE STAFF RECOMMENDATION

(May be revised upon receipt of new information at any time to the Design Commission decision)

Staff recommends denial of a seven-story full block building with one level of below-grade parking.

=====

**Procedural Information.** The application for this land use review was submitted on August 5, 2019 and was determined to be complete on October 1, 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 August 5, 2019.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant waived the 120-day review period, as stated with Exhibit (Exhibit A.2) Unless further extended by the applicant, **the 120 days will expire on: September 30, 2020**

**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

recommendation of the Bureau of Development Services with input from other City and public agencies.

**This report is not a decision. The review body for this proposal is the Design Commission who will make the decision on this case.** This report is a recommendation to the Design Commission by the Bureau of Development Services. The review body may adopt, modify, or reject this recommendation. The Design Commission will make a decision about this proposal at the hearing or will grant a continuance. Your comments to the Design Commission can be mailed, c/o the Design Commission, 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201 or faxed to 503-823-5630.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. You may review the file on this case by appointment at our office at 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201. Please call the file review line at 503-823-7617 to schedule an appointment.

**Appeal of the decision.** The decision of the Design Commission may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Design Commission, City Council will hold an evidentiary hearing, one in which new evidence can be submitted to them. Upon submission of their application, the applicant for this land use review chose to waive the 120-day time frame in which the City must render a decision. This additional time allows for any appeal of this proposal to be held as an evidentiary hearing.

**Who can appeal:** You may appeal the decision only if you write a letter which is received before the close of the record for the hearing, if you testify at the hearing, or if you are the property owner/applicant. **Appeals must be filed within 14 days of the decision. An appeal fee of \$5000.00 will be charged.**

Additional information on how to file and the deadline for filing an appeal will be included with the decision. Assistance in filing the appeal and information on fee waivers are available from the Bureau of Development Services in the Development Services Center, 1900 SW Fourth Ave., First Floor. Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

**Recording the final decision.**

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

- *Unless appealed*, the final decision will be recorded after **November 22, 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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

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

**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).**

Hannah Bryant  
October 23, 2019

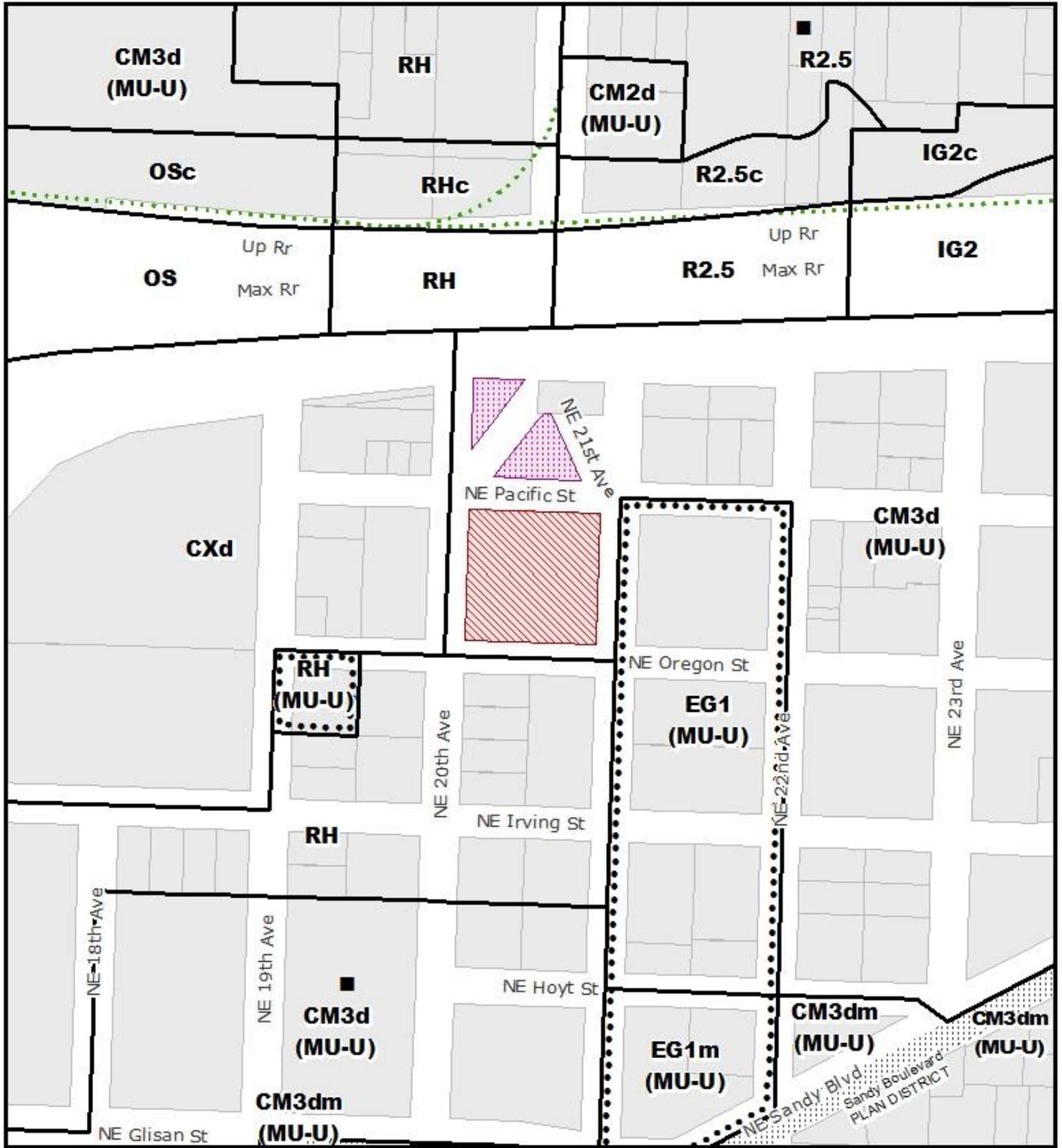
**EXHIBITS – NOT ATTACHED UNLESS INDICATED**

- A. Applicant's Statement
  1. Original Submittal
  2. Extension Request
  3. Traffic Analysis Data
- B. Zoning Map (attached)
- C. Plan & Drawings
  1. Site Plan (attached)
  2. Drawing Package dated November 1, 2019
- D. Notification information:
  1. Request for response
  2. Posting letter sent to applicant
  3. Notice to be posted
  4. Applicant's statement certifying posting
  5. Mailed notice
  6. Mailing list
- E. Agency Responses:
  1. Water Bureau
  2. Fire Bureau
  3. Site Development Review Section of BDS
  4. Bureau of Environmental Services
  5. Bureau of Transportation Engineering and Development Review
  6. Life Safety
- F. Letters

1. Chiapuzio, Kurt. October 31, 2019 – Does not support an Adjustment to reduce parking or reduced lighting standards.
2. Heffernan, DJ / Sullivan’s Gulch Neighborhood Association. October 25, 2019. The neighborhood association supports the inclusion of affordable housing. It supports the Adjustment to reduce parking.
3. Shea, Samuel. November 5, 2019 – Concerns about development city-wide; does not support an Adjustment to minimum parking.
4. Valladeros, Tomas. August 14, 2019 - Does not support an Adjustment to reduce parking.
5. Willard, Angelique. October 31, 2019 – Does not support an Adjustment to reduce parking.
6. Winters, Jodi. October 29, 2019 – Does not support an Adjustment to reduce parking.
7. Winters, Ryan. October 31, 2019 – Does not support an Adjustment to reduce parking or reduced lighting standards.

G. Other

1. Original LUR Application
2. DAR Summary Notes
3. Incomplete Letter



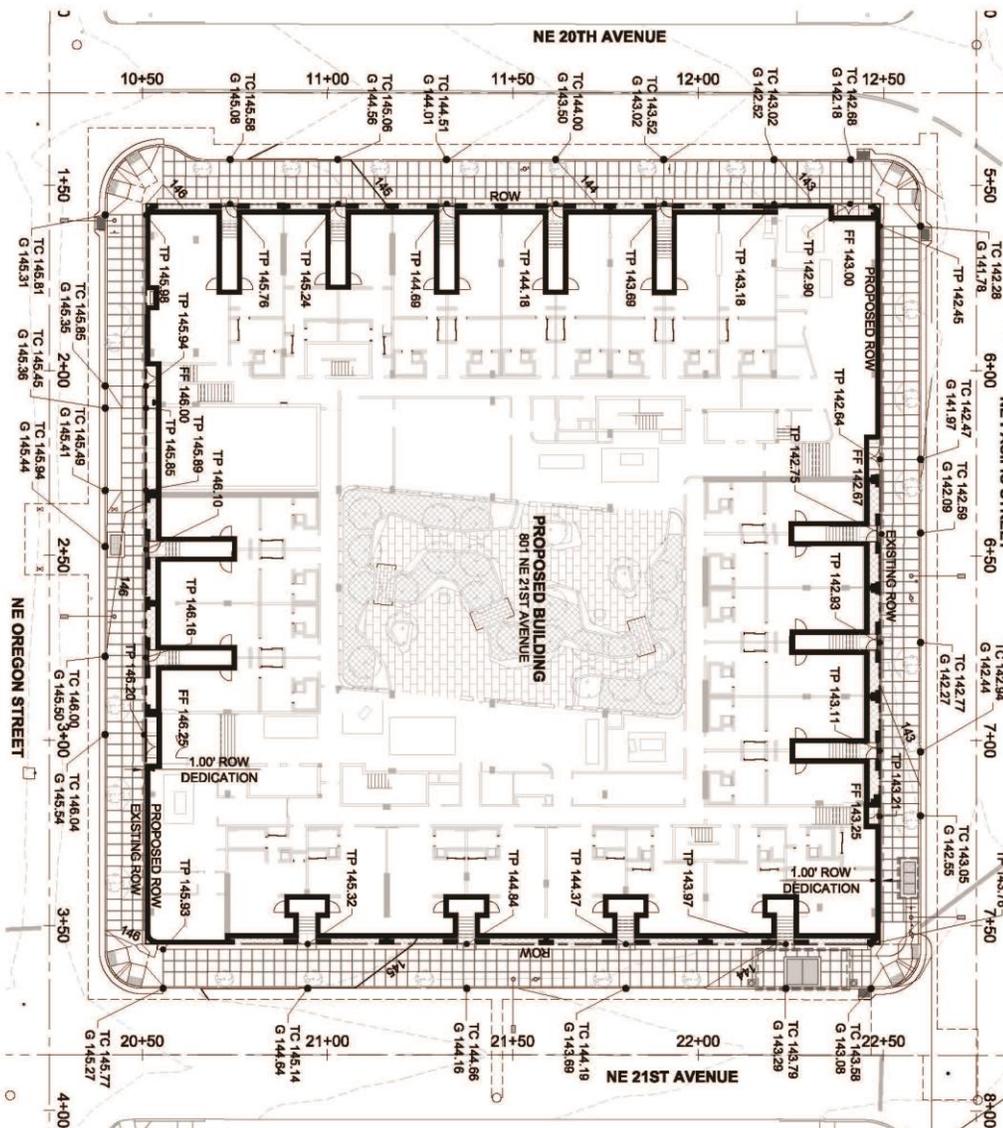
# ZONING



-  Site
-  Also Owned Parcels
-  Historic Landmark
-  Recreational Trails

File No.	LU 19-204560 DZM AD
1/4 Section	2932
Scale	1 inch = 200 feet
State ID	1N1E35AD 2400
Exhibit	B Aug 07, 2019

# HACKER



DAIRY APARTMENTS • Design Review Submittal • November 1, 2019



**SHEET LEGEND**  
 FF XXX.XX FINISHED FLOOR ELEVATION  
 G XXX.XX GRADE AT GUTTER  
 TC XXX.XX TOP OF CURB  
 TP XXX.XX TOP OF PAVEMENT



## CIVIL GRADING PLAN

LU 19-204560 DZM AD

Exhibit C-02