



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

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Date: January 27, 2020
To: Interested Person
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 19-194302 DZM – 3802 NE MLK JR. BLVD., NEW MIXED-USE

GENERAL INFORMATION

Applicant: Max Taschek, William Kaven Architecture
4075 N Williams Ave, #440, Portland OR 97227
503.841.6718, max@williamkaven.com

Owner: MLK Failing LLC
3330 NW Yeon Ave #100, Portland, OR 97210

Site Address: 3802 NE M L KING BLVD

Legal Description: BLOCK 1 LOT 1-3 TL 9700, LINCOLN PK
Tax Account No.: R497100020
State ID No.: 1N1E23CC 09700
Quarter Section: 2631

Neighborhood: King, contact Jacquie Walton at jacquie.kingnapdx@gmail.com
Business District: Soul District Business Association, contact at info@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Laura Becker at 503-388-6088.

Plan District: Albina Community

Zoning: CM3(MU-U)d,m; Commercial Mixed Use 3 (CM3), with Design (d) and Centers Main Street (m) overlays, and a Mixed Use - Urban Center (MU-U) Comprehensive Plan Designation.

Case Type: DZM, Design Review with Modification reviews
Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:

The applicant is seeking Design Review approval for a new eighteen (18) unit, 3-story mixed-use building located on a 4,690 SF lot on the southwest corner of the intersection of NE MLK Jr. Blvd and NE Failing, in the Albina Community Plan District.

The proposed ground floor programming consists of retail at the corner, a residential entrance, and building services along NE MLK, and two (2) ground floor units, one with direct access to NE Failing. The upper two floors consist of the remaining sixteen (16) units. An eco-roof with mechanical units is proposed on the roof. The primary building materials include brick masonry veneer, aluminum storefront and entry doors, and painted steel canopies at the ground floor street frontages, with box rib metal panel and fiber cement panel cladding and vinyl windows on upper stories and side (east and south) elevations.

Two (2) **Modifications** are requested:

- **Modification 1** – Request to modify Long-Term Bicycle Parking Spacing, PZC, 33.266.220.C.3.b, to reduce the spacing of long-term bicycle parking from the required 24” to 18”.
- **Modification 2** – Request to modify Required Outdoor Area, PZC, 33.130.228.B.2.b, to change the minimum shape from a 20’ by 20’ square to an elongated “L” shape formed by overlapping rectangles of 12’-5” by 32’-0” and 14’-0” by 20’-5”.

Design review is necessary because the project proposes new development within a design overlay zone.

Relevant Approval Criteria:

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

- *Community Design Guidelines*
- *33.825.040 Modifications That Will Better Meet Design Review Requirements*

ANALYSIS

Site and Vicinity: The project site is a 4,694 square foot site located at the intersection of NE Martin Luther King Junior Blvd and NE Failing Street, in the Albina Community Plan District.

The site and adjacent lots to the south are zoned CM3d,m, which includes a Centers Main Street (m) overlay in response to MLK, and the lots to the east are zoned CM3d. The City’s Transportation System Plan (TSP) classifies the abutting rights-of-way (ROWs) as follows:

- The site is not currently located within a Pedestrian District.
- NE MLK is classified as a Civic Corridor, Major City Traffic Street, Regional Main Street, Major Transit Priority Street, City Walkway and a City Bikeway.
- NE Failing is classified as a Local Service Street 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.

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

- LU 16-250774 DZM – Design Review approval for a new 5-story, 89-unit apartment building with 19 parking spaces and 2 car-sharing spaces along the east side of the site, with a Modification to reduce the width of the drive aisle from 20’ to 18’.
- LU 05-146013 DZ – Withdrawn design review application for wireless antennas on a wooden pole.
- LU 99-017065 (Ref. #: LUR 99-00660) – Design review approval for a new one-story retail building.
- LU 87-037318 (Ref. #: VZ 98-87) – Title 34 Variance approval to increase the number of off-street parking spaces and to reduce the required landscaping on the east side from 5 feet to 0 feet.
- LU 83-034143 (Ref. #: VZ 228-83) – Title 34 Variance approval to waive required 5’ wide landscaped buffer and sight-obscuring screen along the west, north, and east sides of the parking lot; and to waive internal landscaping requirement of 5 square feet per space in order to pave area north of the covered offices for a parking lot and surround it with a 7’ tall wrought iron fence.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **November 22, 2019**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibits E.1.a and E.1.b).
- Bureau of Transportation Engineering (Exhibit E.2.a and E.2.b)
- Water Bureau
- Fire Bureau (Exhibit E.3)
- Site Development Section of BDS (Exhibit E.4)
- Life Safety Section of BDS (Exhibit E.5)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 22, 2019. Two written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

- Gregory Petrossian, November 26, 2019, wrote with concerns about the lack of parking (Exhibit F.1).

Staff Response: Parking is not required for this proposal, and it is outside the scope of this review to require it here. The purview of this design review includes elements of the project that relate to the approval criteria, in this case, the *Community Design Guidelines* and *33.825.040 Modifications That Will Better Meet Design Review Requirements*.

- Paxton Rothwell, December 3, 2019, wrote with concerns about increase in vehicle traffic, pedestrian safety crossing MLK at Failing and the modification to bike parking space sizes (Exhibit F.2).

Staff Response: Concerns about offsite issues such as these are outside the scope of this review. However, PBOT have just completed a large pedestrian planning effort called PedPDX. For further information, here is a link to chapter 7 of that plan, which is the implementation strategy. <https://www.portlandoregon.gov/transportation/article/714171>

ZONING CODE APPROVAL CRITERIA

(1) DESIGN REVIEW (33.825)

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. Additionally, the findings have been organized under three tenets, "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.

Findings: This proposed development strengthens the character of the area as follows:

- Enhancing the sense of place and identity of the King Neighborhood and the Martin Luther King Jr civic corridor starts at the site scale. Retail space has been located on the corner of the building, activating frontage along both NE MLK Blvd and NE Failing St. Similarly, the entrance to the lobby has been located along NE MLK Blvd. Visual access to lobby and central court is provided via glazing at the project's feature stair along NE Failing St, and a live/work unit has been located at the Northeast corner of the building to encourage further activation at the pedestrian level. All street level storefronts are punctuated with painted steel canopies, further enhancing the neighborhood's active use along street frontages and contributing to the overall pedestrian-friendly character of the community.
- At three stories, the height of the proposed project is at an appropriate scale with both the commercial and residential developments adjacent. The delineation of base and top, combined with simple massing and a restrained yet high quality material palette, recall the simple forms and elegant materials of streetcar-era commercial buildings. With the exception of sections of the South facade, which will abut the proposed neighboring development and will not be exposed to street frontage, each

facade has been treated as a public frontage. Materials are consistently applied along all faces of the project. Opaque and transparent elements are well composed, not only along Martin Luther King Jr Blvd and NE Failing St, but throughout the courtyard and along the east lot line, which faces the adjacent neighborhood. The arrangement of fenestration pattern and accent spandrel panels along the North facade communicate the building's interior to the street while echoing the massing of the bay window style projections along NE MLK Jr. Blvd. This helps to unify the upper massing, distinguishing it from the building base, visually engaging pedestrians, and enlivening the streetscape.

- Ground floor setbacks, generous canopies, and large glazed openings at storefront and stair provide shelter and engage pedestrians. Landscaping has been implemented along frontages, lot lines, and within the courtyard in an effort to soften the building edges from abutting lots and residential zoning, and to help delineate pedestrian zones at the ground level.

This guideline is therefore met.

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: This proposed development blends into the neighborhood as follows:

- The design of the building is very much in the spirit of the established, yet ever changing King neighborhood and MLK Jr civic corridor. The design exhibits simple massing reflecting the building's interior functions, with articulated base and top reminiscent of numerous streetcar era commercial buildings and consistent with the scale of existing and on-going development along NE Martin Luther King Jr Boulevard. The material palette is simple yet rich in texture, with a distinct but cohesive differentiation between ground floor retail and residences and residential floors above.
- Ground floor active uses extend along most of the NE Martin Luther King Jr Blvd, and more than half of NE Failing street frontages, where views to the interior building elements and access to retail and live/work activate the streets, while building canopies provide shelter. High quality materials such as brick, steel, and metal panel ensure this project will last just as its historic peers. Building setbacks and landscape screening along the east property line help break down the scale of the project where the lot meets existing residential development, while canopy and street trees enhance the pedestrian environment.

This guideline is therefore 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.

Findings for E1 and E2: This proposed development enhances the pedestrian experience in the following ways:

- The design incorporates ground level setbacks along both Martin Luther King Jr Blvd and NE Failing St at the retail and live/work frontage. These setbacks enhance the pedestrian environment by providing space for a variety of activities to take place along building frontages. Gentle sidewalk grading combined with building overhang and canopy will allow for a comfortable outdoor experience at the frontages along both MLK Blvd and NE Failing St.

- Large portions of glazed storefront along both street frontages provide visual interest while adjacent brick walls help anchor the building corners and suggest separation of the residential courtyard, lobby, and stair entrances. The NE Failing Street facade includes a large expanse of glass at the building's main stair, which visually connects the street to the lobby and internal courtyard beyond, highlighting activity within the building.
- The shape of the building creates an internal courtyard to the south, which has been designed to pair with a future building proposed on the adjacent lot; however, it functions as a complete design onto itself. This courtyard, which is designed as an extension of the building lobby, will provide a transitional zone between the busy street frontage and the building's internal envelope, and will be furnished with raised planters, bench seating, and a fire table feature to encourage use. It will also serve as a visual and physical buffer between the building and the strong vehicular presence on NE MLK Jr. Blvd. With views of the courtyard from both NE Failing St and NE MLK Jr. Blvd, the space is simultaneously protected from and connected to the busy civic corridor, activating the frontage while providing respite for building occupants.
- At the building frontage, street trees and associated planters along the furnishing zone create visual interest and help buffer the sidewalk from the street. When combined with the building's overhangs and canopies, the plantings will also create a sense of enclosure and protection from vehicular traffic. Additionally, the design proposes changes in concrete score patterns to help reinforce and delineate the pedestrian through zone from the furnishing and building zones on either side.
- While this proposal is not a large scale project, ground level setbacks along NE Failing Street and large canopies that extend along both street frontages allow for covered window shopping, seating areas, and general congregation adjacent to the right-of-way. Though no seating is proposed as part of this proposal, the intent of creating this space is to allow a restaurant or cafe tenant to provide outdoor seating to engage the sidewalk.
- Generous canopies above storefront glazing, as well as at residential and stair frontage along N Failing St provide additional shelter along the right-of-way, enhancing the pedestrian realm and activating the street frontage.

These guidelines are therefore 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.

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.

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 E3, E4 and E5: The proposal is massed and programmed to meet the intent of these guidelines as follows:

- Lot line setbacks at the northwest corner of the building and along NE Failing, combined with a generous steel frame canopy that extends over the right-of-way along both frontages, will provide coverage which helps define a pedestrian scale at the sidewalk. These setbacks create variation in the facade while providing gathering spaces in the pedestrian realm. Ground floor storefront along both frontages of the corner retail space provide display areas along the pedestrian path, encouraging interaction between pedestrians and businesses. Additionally, the overhang and canopy, combined with proposed street trees and landscaping create a sense of enclosure along the sidewalk.

- Full height glazing at exterior and interior walls of the building's feature stair along N Failing St will allow for a direct visual connection between the sidewalk and the building lobby, as well as the courtyard beyond. Because the project does not propose an elevator, this stair will serve as the building's primary circulation and will be continuously activated and directly visible from the street.
- Stack bond Norman brick masonry walls at ground level introduce an element of tactility and richness to the public realm, while a composition of storefront glazing and metal panel are used to help distinguish retail space from the adjacent residential lobby entrance and stair exit. Green screen trellises to be planted with climbing jasmine are proposed along the masonry wall at the Southwest corner of building frontage, softening the streetscape and providing an additional layer of sensory engagement to the pedestrian environment.
- Locating the retail storefront at the corner of Martin Luther King Jr Blvd and Failing St encourages pedestrian circulation and visually activates the intersection at the ground plane. Ground level setbacks create space for gathering at the corner.
- Above ground level, the building massing cantilevers to the lot lines, while canopies extend beyond, creating a massing that holds the corner, reinforces the intersection, and provides protection for pedestrians.
- The combination of building overhang, canopy, proposed street trees, and landscaping create shelter from the elements at the ground plane along street facing frontages. Building overhang and canopy along the North and West facades, coincident with all storefront openings, provide shelter for pedestrians in the public right-of-way, encouraging congregation and active use in these areas. Similarly, the building's central courtyard has generous overhangs at its perimeter, providing tenants continuous shelter while accessing the lobby or service areas.

These guidelines are therefore 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: As noted earlier, the proposal features exterior site components intended by these guidelines, such as:

- At ground level, setbacks and canopy along NE Martin Luther King Jr Boulevard and NE Failing St allow for covered stopping areas adjacent to the right-of-way. Proposed planting in the furnishing zone, as well as green screen trellises adjacent to the building entry soften the street frontage and contribute to a pleasant pedestrian experience.
- The project proposes a central courtyard, adjacent to the lobby and building entry. This courtyard serves as an outdoor amenity for residents. While this courtyard has been designed in conjunction with a future adjacent project, it is a complete design on its own as well. It will function as an extension of the building lobby and serve as a visual and physical buffer between the private realm and the strong vehicular presence on NE MLK Jr. Blvd. The courtyard design includes green screen trellises and climbing jasmine at vertical walls, raised planters and varied paving materials that define circulation routes and recreational spaces, a fire table feature with seating area, covered seating, and flexible furnishings. Generous building overhangs offer occupants comfort and protection in all seasons. Additionally, views of the interior courtyard will be provided from NE Failing St, through the expanse of glazing at the feature stair, as well as through the main entry gate on NE Martin Luther King Jr. Blvd, provide strong visual connection from the pedestrian realm while still allowing the space to feel sheltered from the street.

- Plantings in the setback along the east property line, in combination with an eight foot high wood site fence, will help to buffer adjacent residences while creating a more pleasant visual experience for residential units along the lot line. Outdoor patios are proposed in this setback at the two ground floor units, and 4 units on the upper levels have private balconies.

These guidelines are therefore met.

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

Findings: Entry prominence is conveyed as follows:

- Main entries to both ground floor retail and residential lobby are located off of NE Martin Luther King Jr. Boulevard. Entries are architecturally defined using materiality, massing, landscaping, canopies, and signage.
- The main building entry along NE MLK Jr. Blvd is architecturally differentiated from the adjacent retail space through the use of brick masonry and green screen trellis systems. The shift in material language in conjunction with the setback and design of the steel access gate defines the entry, while glimpses into the lush courtyard beyond engage pedestrians and activate the street frontage.
- Along NE Failing street, floor to ceiling glazing at Stair 1, in combination with a glass partition between the lobby and stair, provides a visual connection to the building lobby and courtyard, which creates an engaging facade that promotes an active street front. Residential access to the more utilitarian Stair 2 is provided via recessed door along NE Failing St.

This guideline is therefore 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 building and site design attributes will serve to minimize the potential for crime:

- To eliminate dark recesses, pedestrian scale lighting is proposed at building overhangs and within the canopy structures, as well as at landscaped areas along building frontages and within the courtyard.
- With the retail space on the building corner, building entry along NE Martin Luther King Jr Blvd, and a transparent stair and lobby along N Failing St, active uses are provided along all right-of-way frontages, providing security via constant presence and passive observation.
- Access to the landscaping buffer along the East lot line will be restricted by a gated site fence.

This guideline is therefore 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: The building has been designed as part of a holistic composition of four proposed projects situated on adjacent sites along NE MLK Jr Blvd. However, although it has been designed as one part of a larger whole, the building's individual composition is thoughtfully conceived and cohesive, independent of its possible future counterparts. Each facade of the building responds to its relationship to frontage and context while contributing to a coherent whole:

- The overall form of the building reflects its functional program, with a primary residential volume clad in box rib metal panel set on, and cantilevered over a u-shaped base of residential units, lobby, and street front retail. Two smaller, secondary residential volumes, clad in fiber cement panel, sit atop the south ends of the ground floor u-shape, and an exterior courtyard is situated at the center.
- At ground level, retail is clad primarily in full height, glazed aluminum storefront and is flanked on either side by stack bond Norman brick masonry. The texture of brick masonry creates a visually interesting finish with a unique tactile quality that engages the ground floor plane, enhances the pedestrian experience, and communicates a sense of permanence. The brick is extended around all street frontages at the building's base, as well as throughout the courtyard, which creates a cohesive composition of opaque elements that visually anchors the building. The large expanses of storefront at the corner retail space and main circulation stair engage the primary public elevations along NE MLK Jr Blvd and N Failing St, activating a rich pedestrian environment. Further defining the pedestrian environment are generous steel canopies and small at-grade planters, proposed on either side of building entrance. These planters support climbing jasmine vines that will grow onto a minimally designed green screen wall trellis element.
- Along the street frontages, the upper residential volume is visually and formally delineated from the building's base through variation in cladding material, building overhang, and a number of cantilevered canopies that coincide with the lengths of storefront glazing along street frontages. Box rib metal panel spans continuously between the main massing of the upper two floors, creating the aesthetic of a single rectangular volume with vertical ribbing punctuating its proportions. Where the residential massing overhangs retail storefront and building entry along NE MLK Jr. Blvd, shelter is provided at the pedestrian level increasing the area available for cafe type functions, outdoor seating, and retail displays. In addition to creating shelter and defining the pedestrian scale at grade, steel canopies reinforce the horizontal datum between the building base and residential volume above.
- The composition of the upper floor massing is enhanced by an arrangement of bay window-like projections and grouped window openings that appear to span between the two floors.
 - Along NE MLK Jr Blvd, two fiber cement clad rectangular volumes protrude from within the box ribbed metal massing, adding an element of verticality to the building, and will start to create a rhythm along the boulevard. At the southwest corner of the façade, the upper volume transitions to fiber cement panel and steps back slightly from the street front. This shift in material, color, and frontage, in conjunction with projecting steel balconies, further contributes to visual syncopation along Martin Luther King Jr. Blvd.
 - Along N Failing Street, vertical bands of grouped window openings echo the proportions of the bay window protrusions on the adjacent facade. Window frames are joined at floor lines by fiber cement spandrel panels, and both spandrel and frame are finished in a color that contrasts with the box rib metal panel. This results in a fenestration scheme that again accentuates verticality and creates a horizontal rhythm along the street frontage. The vertical band of windows are also organized to express the function of the spaces within the building and relate the upper volume to the ground level.
- At the exterior wall of Stair 1 along N Failing Street, the glazing pattern in the upper volume is carried down to the street frontage to highlight the building's primary means of vertical circulation. Opening the building's feature stair to views from the street creates an engaging pedestrian experience and adds an element of interest to the building facade. Additionally, glass relites between the stair and lobby will provide direct views from the street, through the lobby and into the courtyard beyond.

- At the east property line, the building is set back in deference to the adjacent residences, and the setback is landscaped to provide privacy as well as pleasant views at ground floor units. The fenestration concept employed along the North facade is carried onto the East, arranging stacks of unit window openings in a balanced composition. Similarly, the shift in massing, material, and setback that occurs along the southwest frontage is employed along at southeast frontage. This helps create an element of symmetry in the building form while providing scale and visual interest to the adjacent neighborhood.
- The east and west ends of the south facade will also be clad in fiber cement panel siding, expressing the return of the recessed volume hinted at on the west and east elevations. While in the future these two wall faces are intended to abut the exterior walls of a future building on the adjacent lot, this consistent volumetric treatment maintains coherency in the overall design of this building, making it function successfully as an independent design, regardless of future adjacent development.
- The middle third of the south façade is setback from the lot line to create an internal courtyard. At grade the building face is set back twenty feet from the south lot line, and setback just over eleven feet at the floors above. This creates ample building overhang to protect tenants from the elements while recreating or accessing building services. Brick masonry and glazed aluminum storefront comprise the entirety of the courtyard facades at grade. Above grade, box rib metal, and fiber cement panel carry into the courtyard continuing along their respective volumes at frontage facades and finding clean and rational resolve at courtyard elevations.
- At the roof, mechanical equipment is organized and grouped centrally, setback from the parapet edge to ensure equipment will be shielded from residences and pedestrians alike. A green roof tray system is proposed to cover approximately 60% of the main roof.

Notably, the detailing indicates less than 1” setback of window frames to outside face of box rib cladding (C.20 and C.21), which is much less punch than is usually expected at window openings. Additionally, the usual massing change expected between different cladding materials is not provided between the brick and the box rib paneling above (C.23). However, because of the large scale of the windows and their coherent grouping, the minimal locations where the brick and the box rib materials abut, and the clean modern approach to the detailing and the overall coherency of the design, on balance, these details will likely not be detrimental to the overall building expression.

The building’s thoughtful massing, high quality materials, rich textures, and carefully composed facades constitute a valuable addition to the community that will have a positive impact on the urban fabric.

This guideline is therefore met.

(2) MODIFICATION REQUESTS (33.825.040)

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, Standards for all Bicycle Parking (33.266.220.C.3.b). The project proposes vertical bike racks spaced at 1'-6" rather than the 2' spacing required.

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.

Findings: This modification will allow more required bike parking to be accommodated in a convenient, secure ground floor location by allowing a greater quantity of bike parking per linear foot, while maintaining manufacturer recommendations for bike rack spacing to ensure the protection of bikes as they are maneuvered. The convenience of this ground level bike parking will encourage bicycle usage in general, which will help the project better meet guidelines that encourage pedestrian-friendly design and strengthening of multi-modal transportation, including Guidelines *Pl: Plan Area Character, E1: The Pedestrian Network, and D7: Blending into the Neighborhood.*

Additionally, allowing for the efficient use of space on the ground floor means these spaces will have a smaller footprint, maximizing the amount of the ground floor that can be used for other more active amenities such as the retail use on the corner and resident amenities such as the courtyard, which will help the project to better meet guidelines *Pl: Plan Area Character, E1: The Pedestrian Network, E3: The Sidewalk Level of Buildings, E4: Corners that Build Active Intersections, and D5: Crime Prevention. This criterion is 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 bicycle parking standard is to ensure that such parking is designed so bicycles may be securely locked without undue inconvenience and will be reasonably safeguarded from intentional or accidental damage.

The project is requesting a modification to the minimum width of bicycle rack spacing for vertically hung wall mounted bike racks in the ground floor bike area. Per 33.266.220.C.3.b (and table 266-11), the minimum width for each required bicycle parking rack is 2'-0". In an effort to maximize bike parking along the alcove in the lobby, the project proposes to reduce the minimum width to 1'-6" with an 8" stagger between bikes, which is congruent with the specified bike rack manufacturer's installation guidelines.

The 2 feet by 6 feet size requirement is appropriate for a floor-mounted bike rack. A wall-mounted system, however, hangs the bike by its frame, elevating the front wheel and allowing both wheels to have contact with the wall. By offsetting the vertical racks by at least 8", bikes can be accommodated closer to each other without their handlebars or pedals interfering with each other. The use of offset hanging racks makes for a more efficient use of the premium space within the bike parking rooms, as well at the ground floors when bike room are located there. These allow a six-foot bicycle to be stored in a space that is 1'-6" wide, making the most efficient use of the ground level bike room. The proposed 1'-6" bike rack spacing with a minimum 8" stagger will provide an ease of use to match the ease of use of 2'-0" spacing of non-staggered side by side racks. This rack configuration has successfully accommodated long term storage in other similar projects. *This criterion is met.*

Therefore, this Modification merits approval.

Modification #2, Required Outdoor Areas (33.130.228.B.2.b.1). The project proposes a 510 square feet L-shaped central courtyard, which exceeds the 500 square-foot minimum area required by the standard, with legs of over 20 feet one way and over 32 feet the other, which exceeds the 20 foot minimum dimension requirement in both directions; however, a 20 feet x 20 feet square does not fit entirely within courtyard due to its L-shape.

Purpose Statement: These standards required outdoor areas standards ensure opportunities for residents to have on-site access to outdoor space for recreation, relaxation, natural area, or growing food. Required outdoor areas are an important aspect for addressing the livability of a property with residential units by providing residents with opportunities for outdoor activities, some options for outdoor privacy, and a healthy environment. These standards also allow for outdoor area requirements to be met by indoor community facilities that provide opportunities for recreation or gathering.

Standard: Where outdoor areas are common, shared areas, each area must be designed so that it is at least 500 square feet in area and so that a 20-foot by 20-foot square will fit entirely within it.

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

Findings: Relevant Community Design Guidelines include *D1. Outdoor Areas*, *D3. Landscape Features*, and *E5. Light, Wind, and Rain*.

The outdoor area has been thoughtfully designed to provide attractive, inviting and useable outdoor space for the residents. The L-shape of the courtyard offers a natural variety of useable spaces, and this has been amplified by defining an overlapping of spaces through a variety of paving materials, landscaping features, seating options, overhead cover and open areas, and a fireplace feature. More specifically, the courtyard design helps better accomplish these guidelines as follows:

- *Providing seating near active areas.* The proposed courtyard design includes bench seating integrated into steel planters, both under building cover and surrounding a linear fire table. Non-fixed tables and chairs are also proposed to accommodate more flexible seating arrangements.
- *Incorporating landscaping that enhances the user experience.* The proposed courtyard design incorporates a variety of plantings and planter types, employed to create a sense of natural environment, augment seating areas, and delineate space.
- *Orienting outdoor areas to take advantage of sun and views.* The proposed courtyard provides access to natural light and air, and its design creates pleasant scenery for building occupants.
- *Providing a terrace, private garden or balcony for each dwelling unit.* The proposed design includes private balconies or patios for 6 of the 18 units in the project, and a carefully landscaped central courtyard for all the residents to enjoy.
- *Providing common courtyards.* The applicants advise that the primary design concept of the project is informed by European style courtyard buildings, and this proposed courtyard design, while complete onto itself, provides for the possibility of the creation of a larger central courtyard shared between this building and a future building to the south.
- *Creating usable outdoor areas for gardens and recreational activities.* The courtyard has been designed in a way that prioritizes usable area, creating a variety of spaces to be used in a variety of ways. Spatial variety is provided by using varied paving materials to define circulation routes and recreational spaces, benches provide different seating arrangements, some of which are under cover, landscaping provides a softening of the hard surfaces and brings nature inside, a fire table feature with seating area provides a central focus, and flexible furnishings provide other use options. Generous building overhangs will offer occupants comfort and protection in all seasons.

- *Using a variety of materials and textures to define open spaces and create interesting walking surfaces.* The proposed design incorporates a number of walking surfaces, including concrete paving along circulation routes, and concrete cobble or thermally modified wood decking at recreation areas. The change in paving materials have been thoughtfully orchestrated to indicate transitions and define individual spaces within the courtyard.

This criterion is 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 outdoor areas' standards are to ensure opportunities for residents to have on-site access to outdoor space for recreation, relaxation, natural area, or growing food. The project proposes a combination of individual unit area and common outdoor areas, with a central courtyard proposed to serve as the outdoor common area component.

The L-shaped central courtyard is 510 square feet, which exceeds the 500 square-foot minimum area required by the standard, with legs of over 20 feet one way and over 32 feet the other, which exceeds the 20 foot minimum dimension requirement in both directions; however, a 20 feet x 20 feet square does not fit entirely within courtyard due to its L-shape. To offset this, the courtyard has been designed in a way that prioritizes usable area, creating a variety of spaces to be used in a variety of ways.

- Spatial variety is provided within the courtyard by using different paving materials to define circulation routes and recreational spaces, many benches to provide different seating arrangements, some of which are under cover, landscaping to provide a softening of the hard surfaces and bring nature inside, a fire table feature with seating area to provide a central focus, and flexible furnishings to provide other use options.
- The courtyard has been designed as an extension of the residential lobby with generous glazing offering views into the courtyard. Generous building overhangs will offer occupants comfort and protection in all seasons.
- Views of the interior courtyard will be provided from NE Failing St, through the expanse of glazing at the feature stair, as well as through the main entry gate on NE Martin Luther King Jr. Blvd, providing strong visual connections from the pedestrian realm while still allowing the space to feel sheltered from the street.

The proposed courtyard design provides residents with on-site access to a convenient, appealing landscaped outdoor space that offers a variety of options for recreation and relaxation; therefore, it is consistent with the purpose of the standard, despite the fact that a 20-foot x 20-foot square does not fit entirely within the shape of the courtyard. *This criterion is met.*

Therefore, this Modification 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 requirements of Title 11 can be met, and 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. The proposed 3-story building is an appropriate scale for the neighborhood,

At three stories, the height of the proposed project is an appropriate scale with both the commercial and residential developments nearby. The delineation of base and top, combined with simple massing, and a restrained yet high quality material palette, recall the simple forms and elegant materials of streetcar-era commercial buildings. Additionally, the building will provide pedestrian activation along both street frontages through program - a retail space at the corner and a live/work unit on Failing, and design - large glazed storefronts, building setbacks, landscaping, generous canopies and quality and robust materials such as brick and metal. And, the landscaped courtyard will provide a welcome outdoor amenity for residents. The proposal meets the applicable design guidelines and modification criteria and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of a new 3-story mixed-use building with eighteen (18) residential units and ground floor retail at the corner, and a residential outdoor courtyard.

Approval per site plans, Exhibits C-1 through C-55, signed and dated January 23, 2020, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 19-194302 DZM ." 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.

Staff Planner: Grace Jeffreys

Decision rendered by:  **on January 23, 2020**
By authority of the Director of the Bureau of Development Services

Decision mailed: January 27, 2020

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 **July 17, 2019** and was determined to be complete on **November 19, 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 July 17, 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 requested that the 120-day review period be extended for a total of 49 days (Exhibits A.13 and A.15). Unless further extended by the applicant, **the 120 days will expire on: May 6, 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 decision of the Bureau of Development Services with input from other City and public agencies.

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

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

Appealing this decision. This decision may be appealed to the Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on February 10, 2020** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

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

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

Recording the final decision.

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

- *Unless appealed*, the final decision will be recorded after **February 10, 2020** 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 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 Submittal - Drawings, Narrative, NC documents, 6/19/20
2. Supplemental Diagrams of Outdoor Area and GF, 8/19/19
3. Response to staff email, revised Diagrams of Outdoor Area and GF, 8/20/19
4. Response to staff email, revised Diagrams of Outdoor Area and GF, 8/29/19
5. Response to staff email, revised Diagrams of Outdoor Area and GF, 10/2/19
6. Response to staff email, revised Diagrams of Outdoor Area and GF, 10/15/19
7. Response to staff email, revised Diagrams of Outdoor Area and GF, 10/16/19
8. Response to staff email, revised Diagrams of Outdoor Area and GF, 10/18/19
9. Response to staff email, revised Diagrams of Outdoor Area and GF, 11/1/19
10. Response to staff email, revised Diagrams of Outdoor Area and GF, 11/4/19
11. Revised narrative & drawing package, 11/19/19
12. Response to staff email, revised plans (rev 1) and Stormwater Report, 12/17/19
13. Request for Extension of 21 days, 12/20/19
14. List of revisions for recent packet, 1/2/20
15. Request for Extension of 28 days, 1/10/20
16. Response to BES, revised roof plan and landscape diagram (rev. 2) and Stormwater Report, 1/13/20
17. Response to staff email, revised canopy detail, metal panels and bikes (rev. 3) 1/17/20
18. Response to staff email, revised bike parking (rev. 4) 1/22/20

B. Zoning Map (attached)

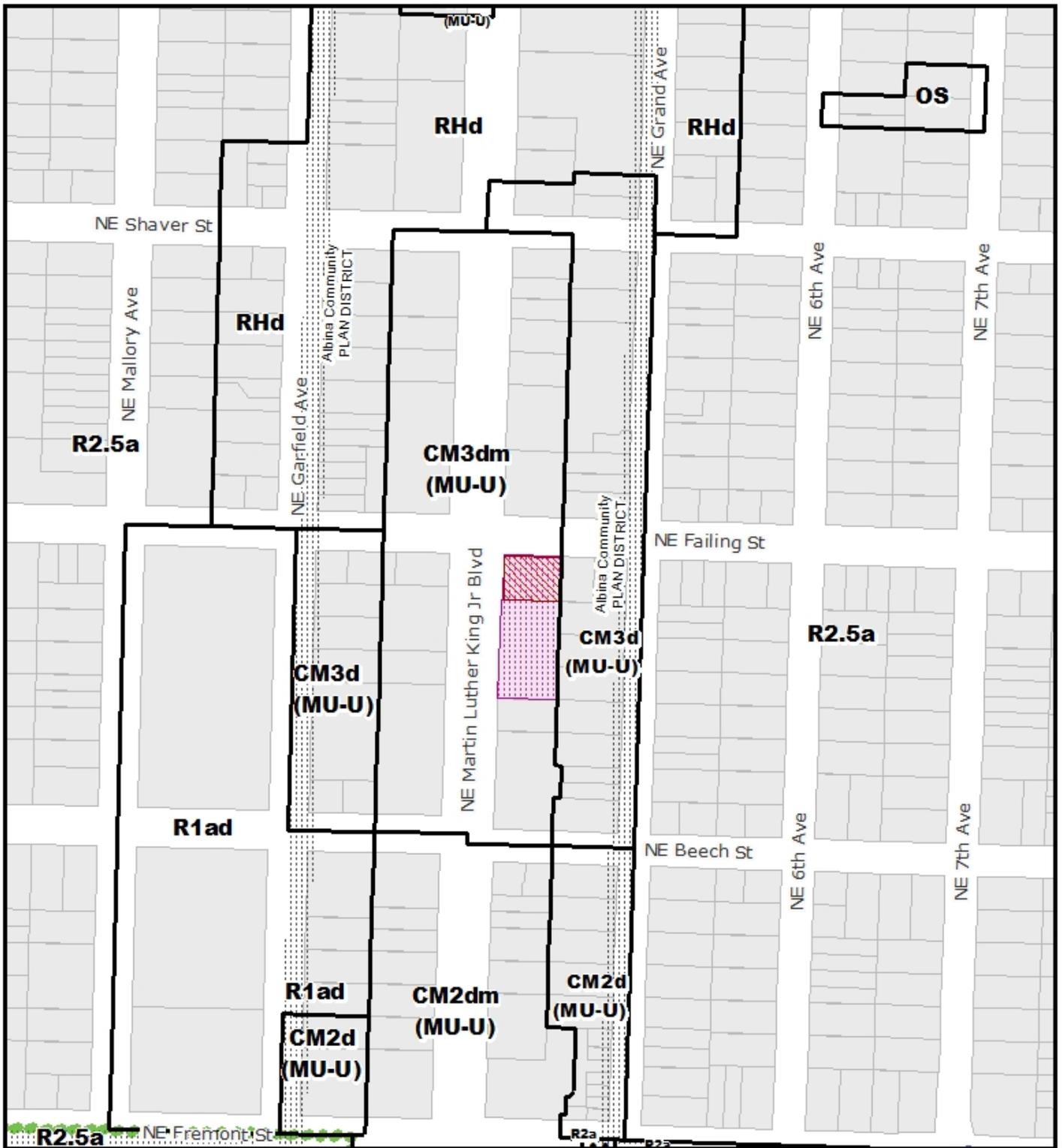
C. Plans/Drawings:

1. Site Plan (attached)
2. Plans – Level 1

3. Plans – Level 2
 4. Plans – Level 3
 5. Plans – Roof
 6. West Elevation (attached)
 7. North Elevation (attached)
 8. East Elevation (attached)
 9. South Elevation (attached)
 10. Building Sections
 11. Building Sections
 12. Enlarged Elevations
 13. Building Details
 14. Building Details
 15. Building Details
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 30. Building Details
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 33. Materials/Colors
 34. Civil Plan
 35. Cutsheets
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 55. Bike spacing diagram
- D. Notification information:
1. Mailing list
 2. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services, response 12/13/19 and addendum, 1/16/20 (Exhibits E.1.a & E.1.b)

2. Bureau of Transportation Engineering and Development Review, response 12/11/19 and addendum 1/6/20 (Exhibits E.2.a & E.2.b)
 3. Fire Bureau (Exhibit E.3)
 4. Site Development Review Section of BDS (Exhibit E.4)
 5. Life Safety Review Section of BDS (Exhibit E.5)
- F. Correspondence:
1. Gregory Petrossian, 11/26/19, concerns with lack of parking.
 2. Paxton Rothwell, 12/3/19, concerns with increase in auto traffic and lack of adequate on-street parking, safety of pedestrians and cyclists, and reduction in long term bike space requirements.
- G. Other:
1. Original LU Application
 2. Early Assistance Summary Memo, EA 18-281071, 2/11/19
 3. Incomplete letter, 7/30/19
 4. Staff email response to 8/29/19 revisions, 9/5/19
 5. Staff email response to 10/18/19 queries, 10/18/19
 6. Staff email response to 12/16/19 queries, 12/16/19
 7. Staff email queries regarding 12/18/19 submittals, 12/20/19
 8. PBOT response to neighbor's concerns about increase in auto traffic and lack of adequate on-street parking, safety of pedestrians and cyclists (Exhibit F.2).
 9. PBOT response to queries about pull-through vaults, 1/6/20
 10. BES email awaiting revised stormwater report, 1/9/20

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



THIS SITE LIES WITHIN THE:
ALBINA COMMUNITY PLAN DISTRICT



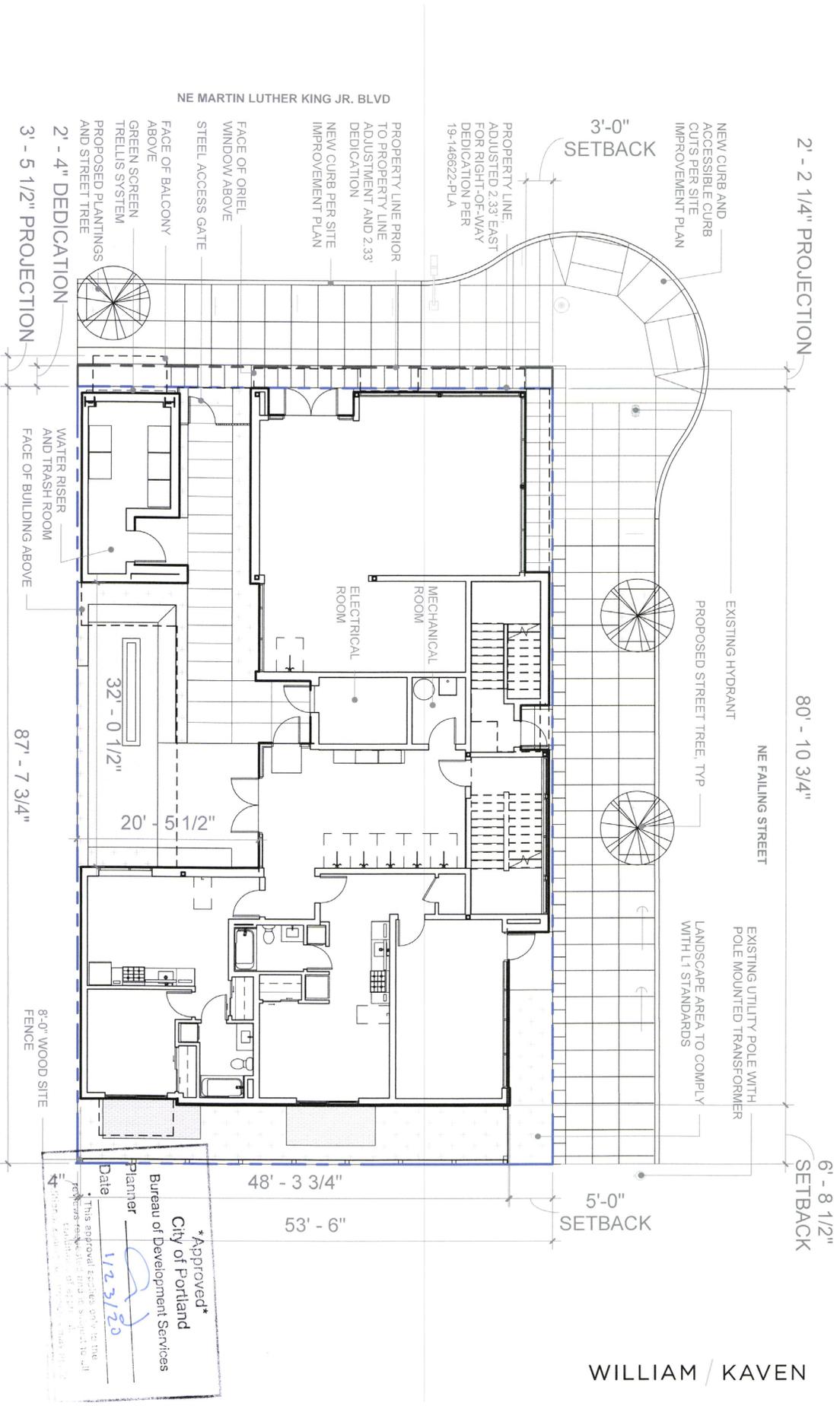
Site



Also Owned Parcels

File No.	LU 19-194302 DZM
1/4 Section	2631
Scale	1 inch = 200 feet
State ID	1N1E23CC 9700
Exhibit	B Jul 22, 2019

12/16/19



WILLIAM / KAVEN

Approved
 City of Portland
 Bureau of Development Services

Planner: *[Signature]*
 Date: 1/23/20

This approval expires only to the extent that the applicant and the subject to all applicable laws, rules, regulations, codes, and ordinances of the City of Portland, Oregon.

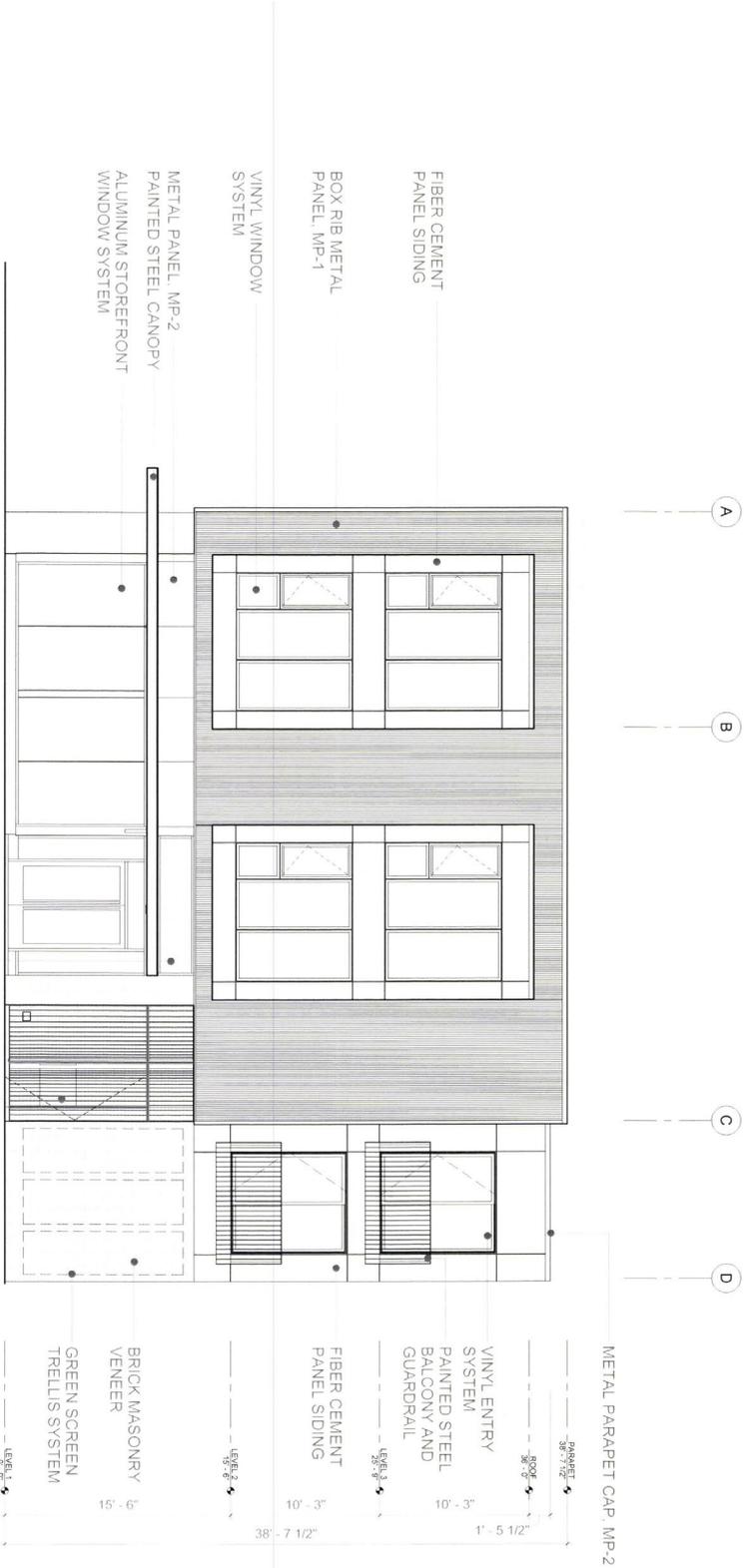
SITE PLANS
SCALE = 1/8" = 1'-0"

SITE PLAN

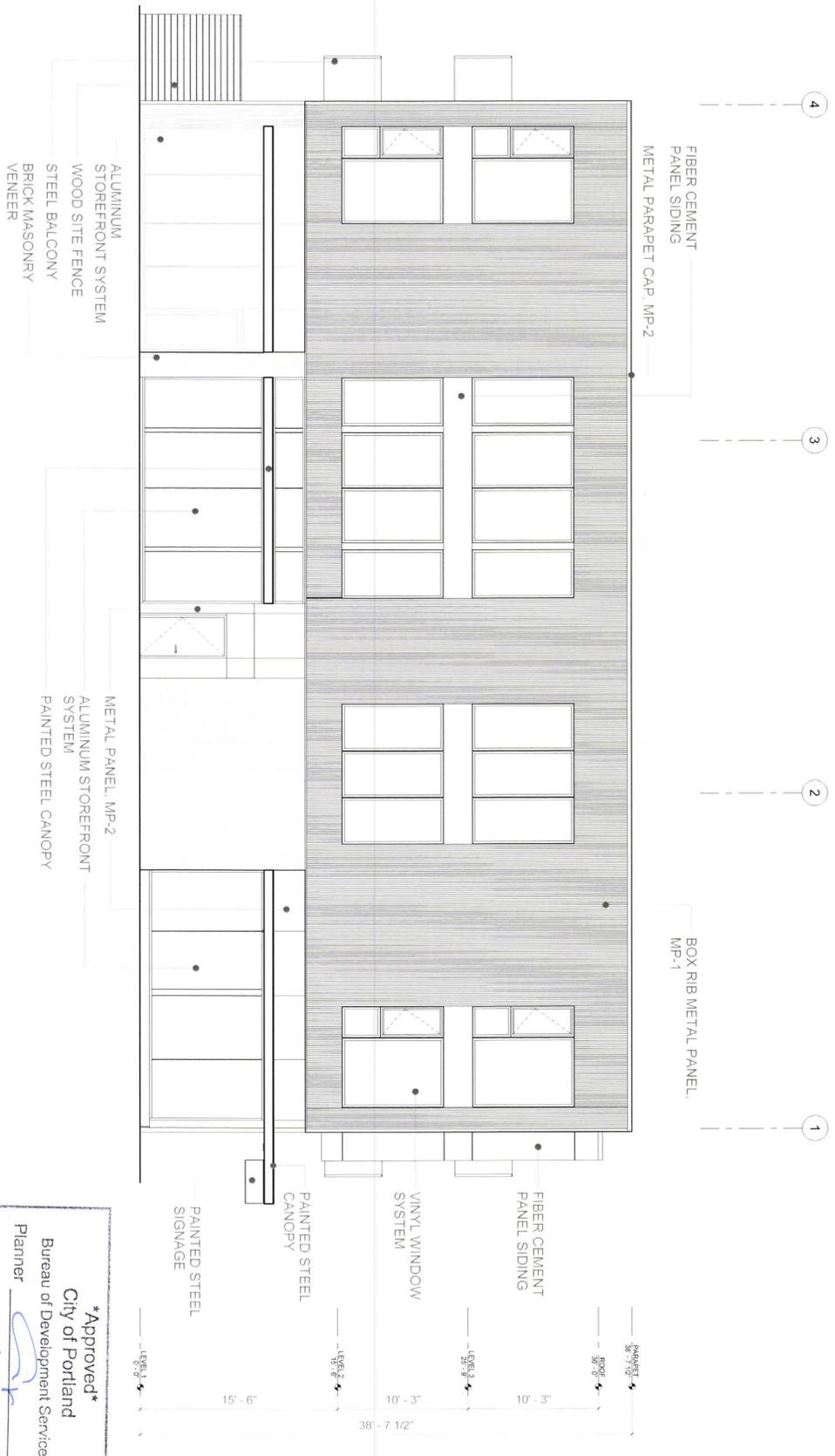
TYPE II DESIGN REVIEW SUBMITTAL

3802 NE MLK JR BLVD
LU 19-194302 D2M

C.1



* Approved*
 City of Portland
 Bureau of Development Services
 Planner *[Signature]*
 Date 1/23/20
 * This approval applies only to the
 reviews requested and is subject to all
 conditions of approval.
 Additional zoning rules/ordinances may apply.



Approved
 City of Portland
 Bureau of Development Services
 Planner *[Signature]*
 Date 1/23/20

* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

BUILDING ELEVATIONS
SCALE 3/32" = 1'-0"

EAST ELEVATION

TYPE II DESIGN REVIEW SUBMITTAL

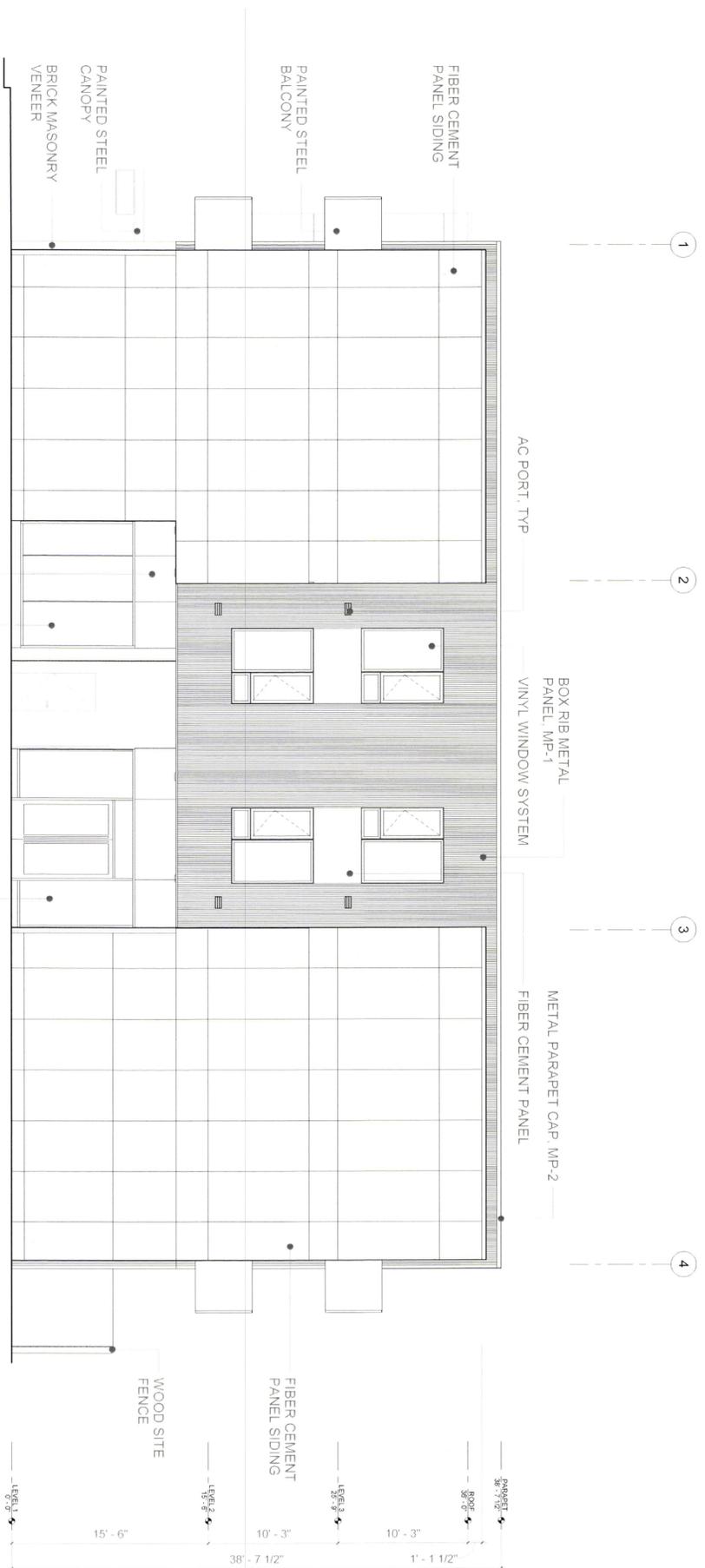
3802 NE MLK JR BLVD
LU 19-194302 D2M

C.8



Approved
City of Portland
Bureau of Development Services
Planner [Signature]
Date 1/23/20

* This approval applies only to the revisions requested in the submitted drawings. It does not constitute approval of the original drawings or any other drawings not submitted for review.



BUILDING ELEVATIONS
SCALE: 3/32" = 1'-0"

SOUTH ELEVATION

TYPE II DESIGN REVIEW SUBMITTAL

3802 NE MLK JR BLVD
LU 19-194302 DZM

C.9

Approved
City of Portland
Bureau of Development Services
Planner *[Signature]*
Date 1/23/20
* This approval applies only to the reviewer and is subject to all review conditions of approval.
Additional zoning or ordinances may apply.