



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

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

Date: February 24, 2020
To: Interested Person
From: Benjamin Nielsen, Land Use Services
503-823-7812 / Benjamin.Nielsen@portlandoregon.gov

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

The Bureau of Development Services has denied 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 19-244401 DZ – NEW MULTI-DWELLING RESIDENTIAL AT N. MONTANA & JESSUP

GENERAL INFORMATION

**Applicant/
Representative:**

Jessamyn Griffin, Works Progress Architecture
811 SE Stark St, Ste 210, Portland, OR 97214
jessamyn@worksarchitecture.com, (503) 234-2945

**Owner on Record for
5626 N Montana:**

Ryan Young
5626 N Montana Ave, Portland, OR 97217

**Owner on Record for
5630-5632 N Montana:**

Matthew Doumitt & Skyline Summit LLC
209 W Evergreen Blvd #600, Vancouver, WA 98660

Site Address:

5626 & 5630-5632 N MONTANA AVE

Legal Description:

BLOCK 8 LOT 1, NORTH ALBINA; BLOCK 8 LOT 2, NORTH ALBINA

Tax Account No.:

R610300690, R610300700

State ID No.:

1N1E15CC 12000, 1N1E15CC 12100

Quarter Section:

2429

Neighborhood:

Overlook NA, contact landuse@overlookneighborhood.org.

Business District:

None

District Coalition:

North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877.

Plan District:

North Interstate

Other Designations:

Albina Community Plan Area

Zoning:

RHd – High-density Residential with Design Overlay

Case Type: DZ – Design Review
Procedure: Type II – an administrative decision with appeal to the Design Commission.

PROPOSAL:

The applicant requests Design Review approval for a proposed new 5-story, approximately 57'-0" tall multi-dwelling residential building consisting 73 dwelling units in the North Interstate Plan District. Long-term bike parking is provided on the ground floor near the northwest corner of the building, and an entry to the main lobby is proposed from N Montana Ave.

Window projections that exceed the allowances in the Bureau of Development Services Code Guide for Window Projections into Public Right-of-Way – OSSC/32/#1 are proposed on both the north and west elevation. Specific standards that are not met are:

- E. Window Area. The standard requires that side windows cover at least 10% of side wall area on windows that project more than 2'-6" into the right-of-way. All three window projections exceed 2'-6" in length; however, no windows are proposed on the side walls of these projecting bays.
- F. Width. The standard requires that no window projection be longer than 12 feet in length. All four proposed window projections exceed this length and measure either approximately 20'-0", 24'-0", and 24'-6" in length each.

Design Exceptions are requested to both of these standards as part of this Design Review proposal. All other window projection standards are proposed to be met.

The proposal has been revised since the public notice was mailed to change the configuration of the proposed dwelling units, increasing them from 11 large dwelling units consisting of 6 to 12 bedrooms each to 73 smaller dwelling units, ranging in size from studio units to 3-bedroom units. The configuration of the projecting window bays has also changed slightly.

Staff also notes that the revised proposal does not meet several zoning code development standards, and no Modifications or Adjustments have been requested to allow them not to be met. These standards are:

- 33.120.220.B – Minimum building setback at the rear (east) setback is not met.
- 33.120.235.C.1 – Landscaping standards, Building setbacks. In both the side and rear setbacks, additional trees are required to meet the standard.
- 33.120.250.C – Screening, Mechanical equipment. No screening is proposed between the transformer at the southwest corner and the street. Landscaping meeting the L2 standard or a fence meeting the F2 standard is required.
- 33.266.220.C.3 – Standards for all bicycle parking; Bicycle racks for proposed long-term bicycle racks. In the bike storage room, double-decker bicycle racks with 17" spacing are proposed as opposed to the 24" spacing required by the standard. In individual dwelling units, bikes cannot be locked to the proposed rack on their frame and one wheel, which is also required by this standard.

Design Review is required for new development in the design overlay zone of the North Interstate Plan District when the applicant elects not to use the objective Community Design Standards of zoning code chapter 33.218.

Relevant Approval Criteria:

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

- Community Design Guidelines

ANALYSIS

Site and Vicinity: The subject site comprises two individual lots in the eastern portion of the North Interstate Plan District. The site is currently occupied by two single-dwelling houses, both of which are setback from the street behind yards that are slightly raised above sidewalk

level. Most of the nearby buildings are of similar scale and are similarly set back, though a newer, two-story multi-dwelling rowhouse project lies to the north across N Jessup St. There is other, larger multi-dwelling development along N Montana Ave to the north and south of the subject site. Like the new rowhouses immediately to the north of the site, these developments are typically set back behind raised, landscaped yards on the front and sides.

N Montana Ave is classified in the city's Transportation Services Plan as a City Bikeway, with local service for all other modes. N Jessup St is classified as local service for all transportation modes.

Zoning: The High Density Residential (RH) is a high density multi-dwelling zone which allows the highest density of dwelling units of the residential zones. Density is not regulated by a maximum number of units per acre. Rather, the maximum size of buildings and intensity of use are regulated by floor area ratio (FAR) limits and other site development standards. Generally the density will range from 80 to 125 units per acre. Allowed housing is characterized by medium to high height and a relatively high percentage of building coverage. The major types of new housing development will be low, medium, and high-rise apartments and condominiums. Generally, RH zones will be well served by transit facilities or be near areas with supportive commercial services. Newly created lots in the RH zone must be at least 10,000 square feet in area for multi-dwelling development. There is no minimum lot area for development with detached or attached houses or for development with duplexes. Minimum lot width and depth standards may apply.

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

Land Use History: City records indicate there is one prior land use reviews for this site.

- LU 19-228903 DZ – Withdrawn Design Review application for a proposed 5-story building occupying a quarter city block at N Montana Ave and N Jessup St.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **November 26, 2019**.

- The Bureau of Environmental Services (BES) initially responded with a recommendation to deny the Design Review due to lack of a stormwater management plan. Please see Exhibit E.1 for additional details. Upon receipt of that plan, BES revised its recommendation to having no objections to approval of the Design Review and noting, additionally, that the proposed drywell location does not appear to meet minimum setback requirements. BES also provided additional information about sanitary sewer and stormwater management requirements. Please see Exhibit E.2 for additional details.
- The Bureau of Transportation Engineering (PBOT) initially responded with a recommendation to deny to the Design Review, citing lack of support for the proposed large window projections over the right-of-way, encroachment of the long-term bike parking room into the right-of-way, which would require separate approval of a Major Encroachment; and permanent planters in the right-of-way which contravened a Public

Works Alternative Review decision. Please see Exhibit E.3 for additional details. Upon review of revised plans, PBOT continued to object noting that an approved encroachment permit was still needed for the proposed planters and said that proposed window projections into the right-of-way exceeded code guide standards which are not allowed to be exceeded, even with design review. Please see Exhibit E.4. PBOT finally responded on 02/21/2020 that the encroachment permit application (20-114985 TR) for the proposed planters was denied on 02/05/2020. Please see Exhibit E.9.

BDS staff responses:

- *Staff forwarded comments from PBOT to the applicant. Staff notes that the proposed window projections fall within allowed maximum amounts, and the standards requested to be exceeded, standards E and F, are allowed to be exceeded with design review approval. The proposed exceptions further do not exceed the maximum limitation in standard F, which limits the exceptions to the Width standard to no more than 40% of the wall's area and 50% of the building wall's length when evaluated through Design Review.*
 - *Regarding the encroachment of the long-term bicycle parking room, this appears to have been resolved in design revisions submitted to city staff on January 31, 2020, which moved the room to lie entirely within the subject site.*
 - *Regarding the proposed planters within the rights-of-way adjacent to the building, BDS staff notes that an encroachment permit (20-114985 TR) was applied for and denied on February 5, 2020. BDS staff has noted in the Findings below that the proposed planter boxes are not approvable without first receiving an encroachment permit, and staff has also denied the overall proposal.*
- The Fire Bureau responded stating that all applicable fire code requirements shall apply at the time of permit review and development. Please see Exhibit E.5 for additional details.
 - The Site Development Section of BDS responded with no objections to approval and with information about septic system decommissioning requirements. Please see Exhibit E.6 for additional details.
 - The Water Bureau responded with comments about available water service to the site. Please see Exhibit E.7 for additional details.
 - The Life Safety Review Section of BDS responded with general life safety comments. Please see Exhibit E.8 for additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 26, 2019. A total of nine written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

- 1) Kenneth Van Cleve, 12/09/2019, email with concerns about the proposal. Specifically, the respondent cited possible misstatements about the originally proposed use and occupancy of the building, stating that it should be considered a Group Living use instead of a Household Living use. The respondent also cited potential parking issues, since no parking is required by zoning for Household Living uses in this area, given the site's proximity to transit.

BDS staff notes that, since the comment was received, the proposal has been revised to include 73 residential dwelling units that will clearly meet the definition of a Household Living use. Staff also notes that, in order to build 73 dwelling units with no parking, the requirement in zoning code section 33.266.110.D.1.a must be met—specifically the provision on-site of off-site inclusionary housing in compliance with zoning code chapter 33.245. If this standard is not met, 25 parking spaces would be required.

- 2) Alexandra Degher, Overlook Neighborhood Association (OKNA) chair, and Christian Trejbal, OKNA vice chair, 12/12/2019, letter with concerns about the proposal. The respondents cited concerns that the proposed building use, as originally proposed, would function as Group Living rather than Household Living, the former of which would require a Conditional Use Review in order to be built in this area. The respondent requested that staff require a Conditional Use Review or require the proposal to be clearly designed as a Household Living use. The respondents also raised concerns regarding the height and scale of the proposal, which they proposed could be resolved through a Conditional Use Review.

See the BDS staff response to comment number 1 re: the proposed use on the site. A Conditional Use Review is not required for the revised proposal which clearly shows that the use will be a Household Living use. Regarding the scale and height of the proposal, see the Findings below.

- 3) Adam Thompson, 12/15/2019, email with concerns regarding classifying the original proposal as a Household Living use.

The proposal has been revised since these comments were received to clearly indicate Household Living uses in the building.

- 4) Mulysa Melco, 12/15/2019, email with concerns about excessive outdoor lighting.

Staff notes that proposed exterior lighting on the site is limited. A wall-mounted light is proposed at the rear egress door on the east side of the building, and another is required through a condition of approval at the loading door on the south side of the building. These fixtures have a narrow beam-spread which points towards the ground, rather than the sky. Proposed exterior lights along the pathway are low to the ground and also shine downward. Similarly, light fixtures under the canopy along N Montana Ave shine downward, limiting the impact on the night skyline.

- 5) Nick Wilson, 12/17/2019, email requesting additional information and stating that the proposed building height is unprecedented. The respondent also questioned if studies had been done on the impact of on-street parking caused by the proposed development.

The proposed building will be the tallest structure in the immediate area along N Montana Ave; however, the zoning code allows for building heights up to 85 feet. Additional height, up to 125 feet, is possible in this specific area of the district if a Design Advice Request is first held with the Design Commission and pursues the discretionary Design Review track (rather than the prescriptive Community Design Standards in zoning code chapter 33.218). Staff also notes that a 55'-0" tall building would be allowed through the prescriptive design standards track, which is only two feet shorter than the proposed building's parapet.

- 6) Kristoffer McGill, 01/10/2020, email with concerns about the location of the proposed drywell relative to the house at 5614 N Montana Ave, requesting no entries on the south side of the building, and stating the building should provide more dwelling units (than the 11 originally proposed).

Regarding the drywell issue, staff notes that BES will require the drywell to be moved to be in compliance with setback standards from the property line: BES notes that the drywell must be at least 10 feet from the property line. Regarding the proposed entries and patios along the south side of the site, there are no Design Review approval criteria that staff can use to require removing these patios and doors from the proposal. However, staff notes that the minimum setback landscaping standards are met along the south lot line. Since no Modification or Adjustment to this standard is requested—and for other reasons listed in the Findings, below—staff is denying the proposed development.

- 7) Mulysa Melco, 02/01/2020, email in response to design revisions. The respondent recommended downward-facing light fixtures for proposed outdoor lighting, noted that *Nandina* species plants are connected with bird deaths, and *Betula* species are not climate-adapted for this location and recommended that more locally-native plants be proposed.

Staff notes that proposed light fixtures are all downward facing. Regarding the proposed plants cited by the respondent, all are listed in the Portland Tree and Landscaping Manual as plants that are recommended and approved for use in Portland. There are no Design Review criteria that would allow staff to deny these plants. However, staff suggests the applicant consider the plants recommended by this respondent. No additional Design Review approval will be needed to change the proposed plant species.

- 8) Kenn Van Cleve, owner of house at 5605 N Montana Ave, 02/03/2020, email in response to design revisions. The respondent cited the existing multi-dwelling building at the northeast corner of N Montana Ave and N Jessup Ave and noted that it is set back from its property line and sidewalk and contrasted these to the window projections into the rights-of-way in the proposed project, stating that building out to the property line and projecting over the rights-of-way cause the building to “loom above pedestrians” and increase loss of light for the house immediately to the south.

The Findings, below, are in agreement with these points.

- 9) Kristoffer McGill, 5614 N Montana Ave, 02/12/2020, email in response to design revisions. The respondent again notes the proximity of entries on the south side of the building to the adjacent property and asking staff to remove these patios. The respondent also again notes the proximity of the proposed drywell to the adjacent property.

See the staff response to comment number 6, above.

ZONING CODE APPROVAL CRITERIA

Chapter 33.825 Design Review

Section 33.825.010 Purpose of Design Review

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

Section 33.825.055 Design Review Approval Criteria

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

Findings: The site is designated with design overlay zoning (d), therefore the proposal requires Design Review approval. Because of the site’s location, the applicable design guidelines are the Community Design Guidelines.

Community Design Guidelines

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

systems; and **(D) Project Design**, which assures that each development is sensitive to both Portland's urban design framework and the users of the city.

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

Context

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

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

Findings for P1 & D7: The proposed development meets these guidelines in the following ways:

- The lobby entrance for the building faces N Montana Avenue, which is intended to function as a “residential main street” in the eastern portion of the North Interstate Plan District.
- The proposed development is of a scale appropriate to the desired characteristics of the RH zone and in keeping with the goals of the North Interstate Corridor Plan in terms of creating taller, higher-density development in the “Neighborhood East” portion of the district, helping to “create a buffer for nearby residences and buildings.”
- The overall building massing is subdivided into smaller massing components, which helps to reduce the apparent scale and impact of the new, large multi-dwelling residential building set into the current context of predominantly single-dwelling and one- or two-story multi-dwelling structures.
- The proposed lap siding and shingle siding used on the building references materials traditionally used both on single dwelling-scaled buildings that are found in the neighborhood as well as on larger multi-dwelling-scaled buildings. These materials are also appropriate to the scale of development proposed, at 57'-0” tall, on the 10,000 square foot subject site.
- The division of the residential unit windows into four parts helps to break the scale of the windows down to a scale that is more in keeping with those found on single dwelling-scaled buildings in the area.

Some aspects of the proposal do not meet these guidelines, however:

- The building should be set back from the sidewalk edges along both N Montana Avenue and N Jessup Street to better integrate with the residential character of development along both streets. Here, both existing single-dwelling style buildings and newer multi-dwelling residential buildings are most often set back behind raised, landscaped berms, and the *Community Design Guidelines* specifically states that development facing N Montana Ave in the North Interstate Plan District should incorporate “green landscaped setbacks with new development [that] will contribute to the residential character of the street.” Such landscaping treatments should also be proposed with this development. Doing so would better respond to the North Interstate Plan District's desired characteristics and traditions to reduce the impact of the new development along these established neighborhood streets.
- Proposed window/building projections over the N Montana Ave and N Jessup St sidewalks are not consistent with the character of these residential streets, and these projections should be pulled back to be entirely within the site. While the applicant cites in the proposal narrative that the center image on page 49 of the *Community Design Guidelines* shows bay windows, these are narrower, more

traditionally scaled bay windows. These are also shown in a very urban context, which goes against the text on page 49 for the N Montana Ave area of the Interstate Plan District, which states that development should incorporate “green landscaped setbacks with new development [that] will contribute to the residential character of the street.” Such projections may be permissible, and indeed desirable, if sufficient setbacks from the street are provided; however, as proposed, the window projections over the rights-of-way far exceed what is intended for this portion of the district and are not in keeping with the character of either street.

- For these reasons, the proposed exceptions to the Window Projections Into Public Right-of-Way Code Guide development standards are also not approvable.
- The ground level units should have a transition from the public sidewalk to private entrances facing the street. Vertical and horizontal setbacks combined with landscaping would provide privacy for each unit and comfort for pedestrians as well as a usable outdoor space for tenants, all while further activating and better complementing the residential character of the streets.

Therefore, these guidelines are not met, and the requested exceptions to the Window Projections Into Public Right-of-Way Code Guide standards are denied.

Public Realm

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

Findings: The proposed development has 18-foot wide sidewalks with street trees and landscaping. The ground floor has residential units on all sides that provide active uses adjacent to the sidewalk. The building entry includes lighting for safety of residents and pedestrians. The corner at the ROW intersection will provide 2 new ADA ramps to improve accessibility.

Therefore, this guideline is met.

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

Findings: The proposed development meets this guideline with a recessed area in front of the entry into the building lobby facing N Montana Ave. This recessed area provides space for residents and pedestrians to stop off the main sidewalk to visit, meet, and rest, or to wait for a taxi or ride-sharing service.

Therefore, this guideline is met.

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

Findings: The proposed development meets this guideline in the following ways:

- Active indoor uses and gathering places, in the form of the lobby and the fitness room, are placed along street frontages facing both N Montana Ave and N Jessup St, with the fitness room holding the corner at the intersection of both streets.
- The residential lobby entry is differentiated from the upper stories through differing materials and larger storefront windows.

Some aspects of this proposal do not meet this guideline, however:

- There is no differentiation between the ground level and upper stories where residential dwelling units face the sidewalks along both N Montana Ave and N Jessup St.
- Additional visual interest, street-level differentiation, and small-scale design features would be created at the ground level if entries into individual dwelling units faced both streets, set behind landscape buffers and porches or patios.

Therefore, this guideline is not met.

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

Findings: The proposed development meets this guideline in the following ways:

- A fitness room is proposed at the northwest corner of the building. This room will provide some amount of visual interest to the street, with views of people exercising inside visible along the sidewalk.

Some aspects of this proposal do not meet this guideline, however:

- The northwest corner of the building is its most visible; however, it lacks windows at the corner on its north elevation. Windows need to be added here to help unify this corner and provide additional activation facing N Jessup St and N Montana Ave. This could be remedied by adding a condition of approval requiring the same four-part windows used along the rest of the north façade in the north façade of the corner bedrooms.

Therefore, this guideline is not 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: A 4'-9" deep canopy extends out over the sidewalk along N Montana Ave at the residential lobby area. This canopy extends beyond the lobby entrance in either direction to incorporate sidewalk space in front of the curving walls of the fitness room and trash room, providing additional protection for pedestrians from sun, wind, and rain.

No weather protection is provided in front of residential dwelling units; while this is generally a desirable characteristic, helping to provide additional privacy to ground level tenants and providing some encouragement for windows to be open, staff notes that this guideline would be better met if guidelines P1, E3, and D7 were met by providing additional setbacks and landscaping along both sidewalks. This would afford the ability to plant additional trees on-site, which would provide additional protection from sun and rain.

Therefore, this guideline is met.

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

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

Findings for D1 & D3: The proposed development meets these guidelines in the following ways:

- Landscaping and trees are proposed along both interior lot lines, which helps to visually screen the new development from adjacent, existing, lower-scale dwellings.
- A sizable outdoor roof deck is proposed near the western edge of the roof, providing usable outdoor space for all residents. This deck includes landscape planters and built-in benches, which will help to make the deck pleasant. The deck is accessible to residents via an elevator and stairwell connecting it to the rest of the building.
- Sizable, usable outdoor patio spaces are proposed for ground-level residential dwelling units along the south property line, and one similar patio is proposed along the eastern property line. These patios are proposed at the same grade as the dwelling unit to which they are attached, making them accessible. They are enclosed within fenced off areas of the site, helping make them safe.

Some aspects of the proposal do not meet these guidelines, however:

- The proposed metal landscape planters along the sidewalks are located in the public rights-of-way of both N Montana Ave and N Jessup St. An encroachment permit has been applied for to allow these planters, which would help to screen the ground-level residential dwelling units from the sidewalk; however, this permit has not yet been granted, and PBOT has not yet indicated support for these planters. Therefore, they cannot be approved through design review at this time.
- As noted in Findings for P1 & D7 and Findings for E3, additional setbacks and landscaping should have been part of this design proposal along both N Montana Ave and N Jessup St. Guideline D3 reinforces this by noting that the guideline may be accomplished by “maintaining existing grades and using grading treatments that are compatible with neighboring properties...” The addition of these landscaped areas would also create the opportunity for patios or porches leading to ground floor residential units, helping to make the street frontage of both streets more pleasant and safe. Taken together with the lack of approval for planters in the public rights-of-way, critical landscape elements and important outdoor areas are entirely missing from this proposal.

Therefore, these guidelines are not met.

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

Findings: The proposed development meets this guideline in the following ways:

- The main building entrance is defined by curved walls clad with alternating bands of horizontal wood cladding. The combination helps to set the entrance apart from the rest of the building without deviating from its overall design concept.
- The window pattern and type also shift at the lobby entrance, changing from the residentially-scaled vinyl windows to an aluminum storefront window and entry system. This also helps to make the entrance to the building more prominent.
- The entrance to the building is at grade and faces the district’s “residential main street.” Both characteristics make the entrance both accessible to pedestrians and also helps orient the entrance to transit, even though N Montana Ave is not classified as a transit street.

Therefore, this guideline is met.

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

Findings: No parking areas, parking structures, or garages are proposed.

Therefore, this guideline does not apply.

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 proposed development meets this guideline in the following ways:

- The proposed building has windows from residential dwelling units facing both street frontages. This affords multiple opportunities to have “eyes on the street,” which can help to reduce the likelihood of crime. Even if blinds on the windows end up being closed, light cast through the windows will help to illuminate the sidewalks on both street frontages, and it will provide visual cues that people are inside the units, both of which can also help to deter crime.
- Lighting is proposed at the main lobby entrance and at the egress pathway along the north side of the building. This lighting will help to illuminate faces and dark corners, which will help to reduce the likelihood of crime.

Some aspects of the proposal do not meet this guideline, however:

- No lighting is proposed at the loading space on the south side of the building, and now windows from the adjacent residential unit open onto this space to provide ambient lighting. This space will end up being very dark, particularly with its deep recess from the sidewalk. A light fixture should be placed in this area, as well, to provide illumination. Fixture “H”, which is only proposed in one location at the east elevation, should also be placed near the egress door to the loading area. This will help to provide additional illumination in this area, and the narrow beam-spread will prevent significant impacts on the adjacent single-dwelling residential property. This fixture could be added through a condition of approval.

Therefore, this guideline is not met.

Quality & Permanence

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

Findings: The proposed development meets this guideline in the following ways:

- The overall composition of the building, including the proposed contrasting shingle and lap siding and divided windows, and articulation of the building’s massing lead to the creation of a cohesive multi-dwelling building.
- The regular arrangement of windows and variation of window styles in conjunction with the variation in cladding materials also helps create visual interest.
- Proposed materials, including fiber cement lap siding, fiber cement shingle siding, commercial-grade vinyl windows, and aluminum storefront windows, are of appropriate quality and durability for the type of construction proposed.
- The proposed vertical cedar siding at the lobby entry adds visual interest to the ground floor and helps to identify the main entrance. The proposed clear finish will be sufficiently durable in this location, both since the wood occupies a small area of the building and since this area is protected from weathering by the canopy above. Additionally, in the event that the wood does weather, the cedar should weather to a silvery color that will remain well integrated with the overall composition and color scheme of the rest of the building.
- Proposed typical building details show that the building will be constructed in a way that ensures it will endure and be of lasting quality. Critical to this is the use of a rainscreen system for the building cladding. Not shown on the drawings or

product cutsheets, however, is the proposed finish of important visible materials, such as vents, louvers, and flashing. All these materials should be finished to match the color of the adjacent primary cladding. A condition of approval will be added to ensure that this is done.

Some aspects of the proposal do not meet this guideline, however:

- Proposed louvers under residential windows on portions of the upper stories of the building are not well-integrated into the overall design. The louvers would be better integrated if they spanned the length of the window system, rather than one-half as proposed. A condition of approval requiring the louvers to span the full length would lead to a more cohesive building composition.
- Fiber cement panels and fiber cement shingles should not be used at the ground level, unless they are setback from the sidewalk with adequate buffer, since these materials do not have the durability needed to ensure that they will retain their quality over time in areas that come into frequent contact with pedestrians and bicycles.

Therefore, this guideline is not met.

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.

33.120.220.B – Minimum building setbacks.

Findings: The proposal does not meet the applicable rear setback standard required in the RH zone, as set by zoning code section 33.120.220.B.1. The building partially projects into the rear setback on its east elevation; roughly the southern half of the building should be set back a minimum of 14 feet, given the approximately 5,640 square-foot area of the building wall. A setback of only approximately 13'-8" is proposed, as measured on the Level 1 floor plan. Similarly, the second step

No Modification to this standard has been requested.

Therefore, this standard not met.

33.120.235.C.1 – Landscaping standards, Building setbacks.

Findings: Insufficient landscaping is proposed within the required minimum building setbacks. The standard states that required building setbacks must be landscaped to at least the L1 standard of Chapter 33.248, Landscaping and Screening. That standard states that trees in a specific quantity and size must be provided:

Where the area to be landscaped is less than 30 feet deep, the standard is one large tree per 30 linear feet, one medium tree per 22 linear feet, or one small tree per 15 linear feet. Trees of different sizes may be combined to meet the standard. Trees may be grouped (33.248.020.A.2.a).

However, in the rear setback along the east lot line, which is 100 feet long, only two small trees (of species *Betula jaquemontii*) and two medium trees (of species *Alnus rubra*). These trees equate to coverage of only 74 out of the 100 linear-foot length for the rear setback.

Similarly, an insufficient number of trees is proposed along the south lot line, which is also 100 feet long. Here two small trees (of species *Betula jaquemontii*) and four medium trees (3 of species *Betula nigra* 'BNMTF' and 1 of *Quercus suber* 'occidentalis') are proposed, for a total coverage of only 97 linear feet.

Since no Modifications were requested or approved to either setback landscaping standard, additional trees must be included in the plan to ensure the standards are met.

Therefore, these standards are not met.

33.120.250.C. – Screening; Mechanical equipment.

Findings: The proposed transformer at the southwest corner of the site is not screened from the street with either landscaping meeting the L2 landscaping standard or a fence meeting the F2 fence standard, as required by this screening standard. This could be resolved by shifting the fence dividing the loading area and the outdoor patios further to the west to screen the transformer. Gates could be added to the fence to allow access to the transformer.

No Modification to this standard has been requested.

Therefore, this standard is not met.

33.266.220.C.3 – Standards for all bicycle parking; Bicycle racks.

Findings: These standards are not fully met for proposed long-term bicycle parking inside the building. At the bicycle storage room, a double-decker rack system is proposed, and the spacing between racks on each level is shown at 17” instead of the 24” required to create the 2’ by 6’ space required by the standard. Therefore, this standard is not met.

Proposed in-unit bicycle racks do not appear to meet the standard requiring that the bicycle frame and one wheel can be locked to the rack with a high-security U-shaped shackle lock if both wheels are left on the bicycle. Therefore, this standard is not met for those long-term bicycle parking space.

No Modifications to these standards have been requested.

Therefore, these standards are not met.

CONCLUSIONS

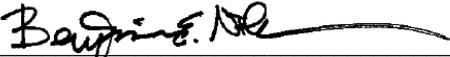
The design review process exists to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The proposal does not adequately meet the Design Review approval criteria—specifically Guidelines P1 – Plan Area Character, E3 – The Sidewalk Level of Buildings, E4 – Corners that Build Active Intersections, D1 – Outdoor Areas, D3 – Landscape Features, D5 – Crime Prevention, D7 – Blending into the Neighborhood, and D8 – Interest, Quality, and Composition. Staff found that landscaped setbacks should be provided along both street frontages, with ground level dwelling unit entry patios or porches and additional landscaping in those setbacks, to better meet the desired character of the plan area and blend into the existing neighborhood. Material quality at the ground floor was also found to be an issue that could be resolved either by setting the building back from the sidewalk edges or proposing a different material at the ground level.

In addition to approval criteria that are not met, several zoning code development standards have not been met. While some of these issues could be addressed through conditions of approval, the rear setback standard would more properly—and coherently—be met through revisions to the design of the building.

ADMINISTRATIVE DECISION

Denial.

Staff Planner: Benjamin Nielsen

Decision rendered by:  on February 21, 2020.

By authority of the Director of the Bureau of Development Services

Decision mailed: February 24, 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 October 23, 2019, and was determined to be complete on November 18, 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 October 23, 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 by 67 days; see Exhibits G.10 (60 days) and G.15 (7 days). Unless further extended by the applicant, **the 120 days will expire on: May 23, 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 March 9, 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.

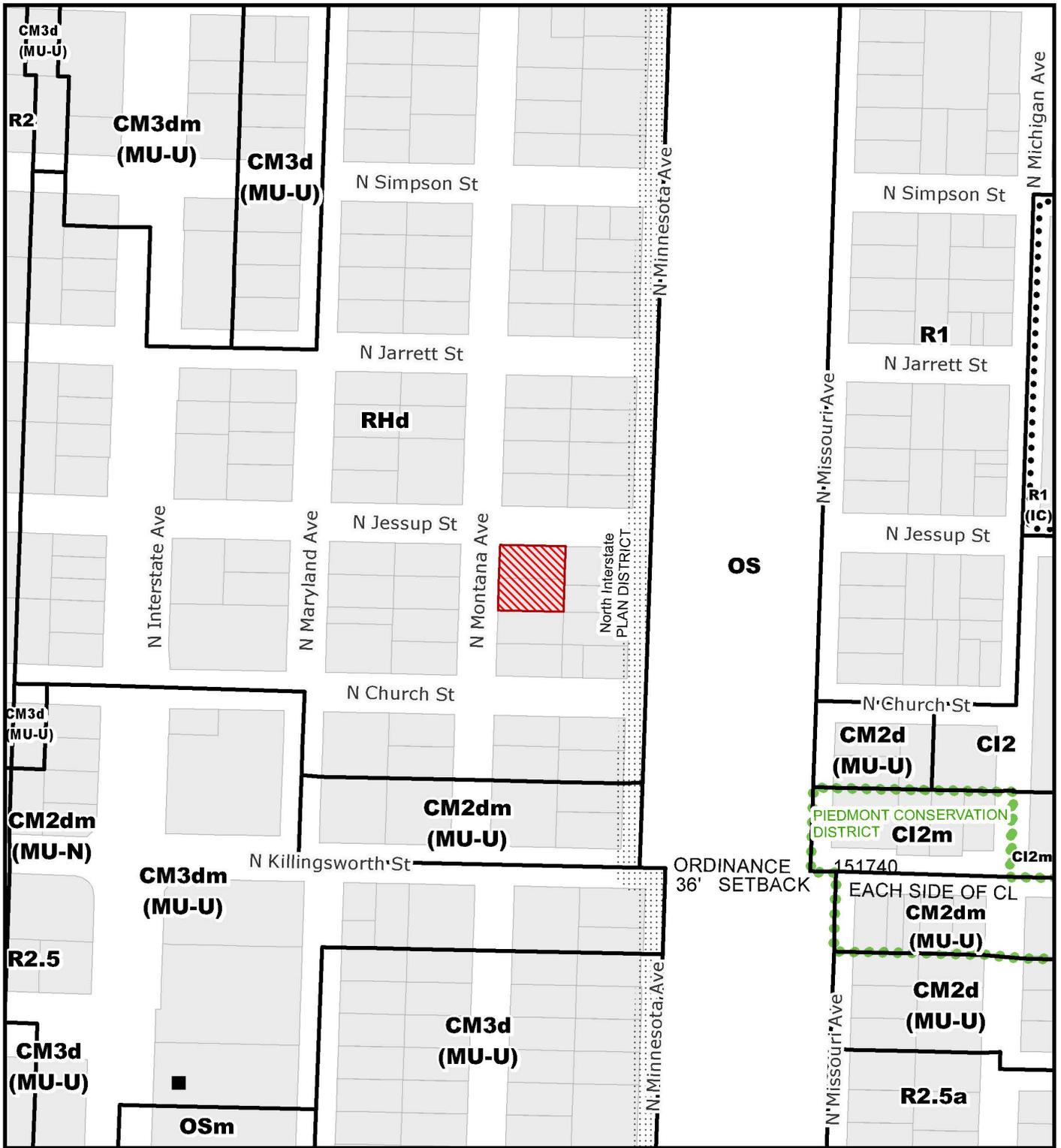
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Submittals
 - 1. Design Review Narrative Packet
 - 2. Drawing Package
 - 3. Proof of Meeting Neighborhood Contact Requirements
 - 4. Completeness Check Response, 11/18/2019
 - 5. Revised Drawing Package, dated 11/15/2019 and received on 11/18/2019
 - 6. Lighting Cutsheets, received 11/18/2019
 - 7. DZ Response Letter, 01/31/2020
 - 8. Revised Design Review Narrative Packet, 01/31/2020
 - 9. Revised Drawing Set, 01/31/2020
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Site Plan/Conditions
 - 2. Overall Proposed Site Plan/Site Lighting Plan (attached)
 - 3. Utility Plan
 - 4. Landscape – Site Plan
 - 5. Landscape – Roof Deck
 - 6. Planting Schedule
 - 7. Planting Legend
 - 8. Window Diagram
 - 9. Building Plans – Levels 1 & 2
 - 10. Building Plans – Levels 3 & 4
 - 11. Building Plans – Level 5 & Roof
 - 12. Enlarged Bike Room Plan
 - 13. Building Sections
 - 14. Material Palette
 - 15. Exterior Elevation – North Elevation (attached)
 - 16. Exterior Elevation – East Elevation (attached)
 - 17. Exterior Elevation – South Elevation (attached)
 - 18. Exterior Elevation – West Elevation (attached)
 - 19. Entry Details
 - 20. Entry Details
 - 21. Entry Details
 - 22. Window Details
 - 23. Window Details
 - 24. Roof Deck
 - 25. Fence
 - 26. Cutsheets
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:

1. Bureau of Environmental Services
 2. Bureau of Environmental Services
 3. Bureau of Transportation Engineering and Development Review
 4. Bureau of Transportation Engineering and Development Review
 5. Fire Bureau
 6. Site Development Review Section of BDS
 7. Water Bureau
 8. Life Safety Review Section of BDS
 9. Bureau of Transportation Engineering and Development Review, 02/21/2020
- F. Correspondence:
1. Kenneth Van Cleve, 12/09/2019, email with concerns re: proposed use
 2. Alexandra Degher & Christian Trejbal, 12/12/2019, letter with concerns re: proposed use
 3. Adam Thompson, 12/15/2019, email with concerns re: proposed use
 4. Mulysa Melco, 12/15/2019, email with concerns re: lighting
 5. Nick Wilson, 12/17/2019, email requesting additional information and citing concerns re: on-street parking
 6. Kristoffer McGill, 01/10/2020, email with concerns re: drywell, entries on south, and proposed use
 7. Mulysa Melco, 02/01/2020, email with concerns re: lighting and proposed plants
 8. Kenn Van Cleve, 02/03/2020, email with concerns re: window projections
 9. Kristoffer McGill, 02/12/2020, email with concerns re: entries on south elevation, proximity of drywell to property line
- G. Other:
1. Original LU Application
 2. Incomplete Application Letter
 3. Request to deem application complete, 11/18/2019
 4. Email follow-up to applicant 11/18/2019 submittals, 11/21/2019
 5. Email from BDS Life Safety re: congregate living occupancy, 11/21/2019
 6. Email from staff to applicant re: unresolved design issues, 12/09/2019
 7. Email from BDS Life Safety re: congregate living occupancy, 12/10/2019
 8. Email thread between staff and applicants re: design revisions, 12/10/2019
 9. Email re: encroachments in ROW from PBOT, 12/11/2019
 10. Signed Request for Extension of 120-Day Review Period, received 12/16/2019
 11. Email thread between developer and staff re: revised building program, 12/16 – 12/17/2019
 12. Email from PBOT re: window projections, 12/17/2019
 13. Email between applicant and staff re: window projections over ROW, 01/16 – 01/22/2020
 14. Request to switch applicant name and applicant response re: window projections, 01/23/2020
 15. Signed Request for Extension of 120-Day Review Period, received 01/23/2020

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



ZONING

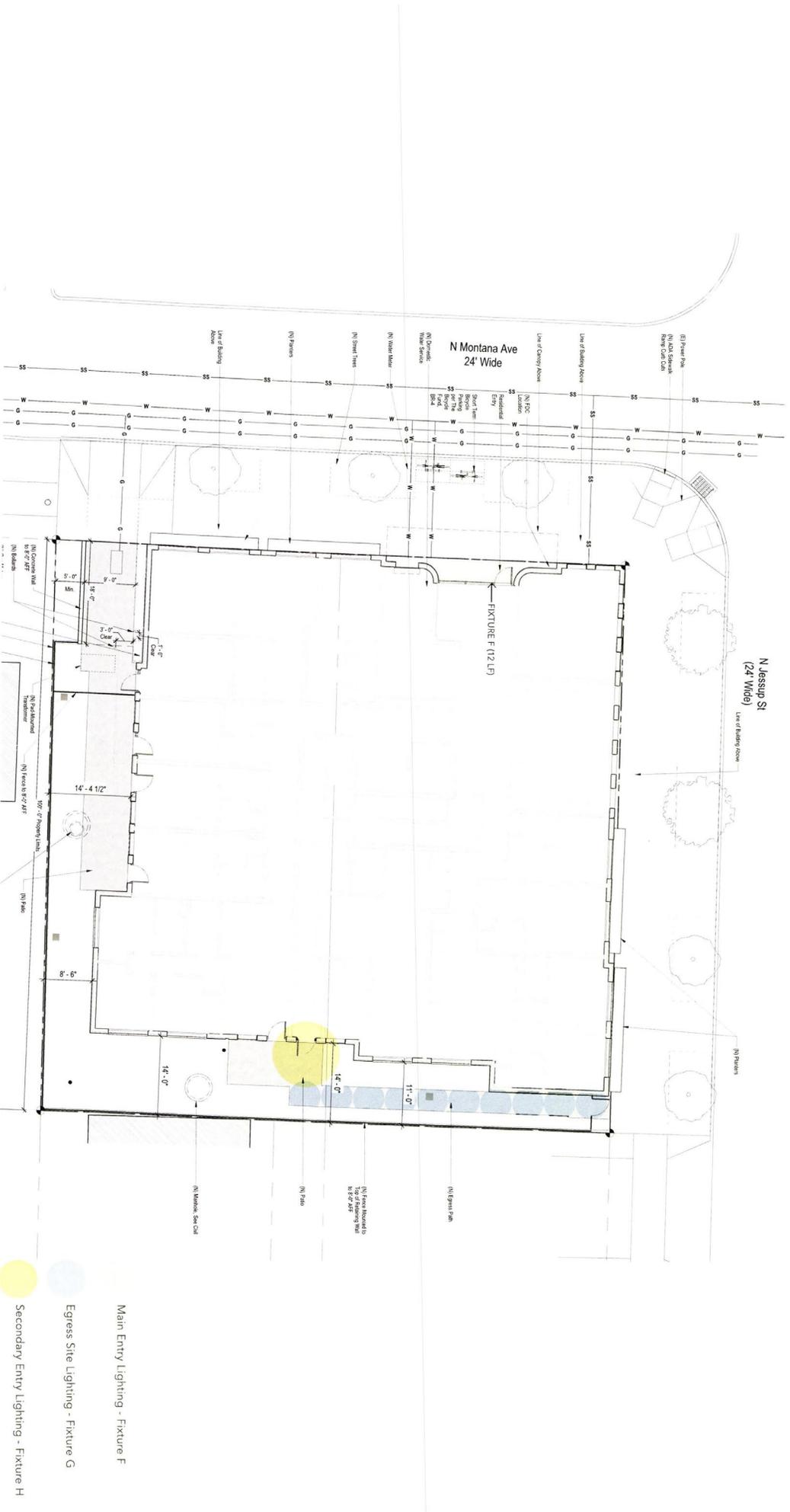
NORTH INTERSTATE PLAN DISTRICT



-  Site
-  Historic Landmark

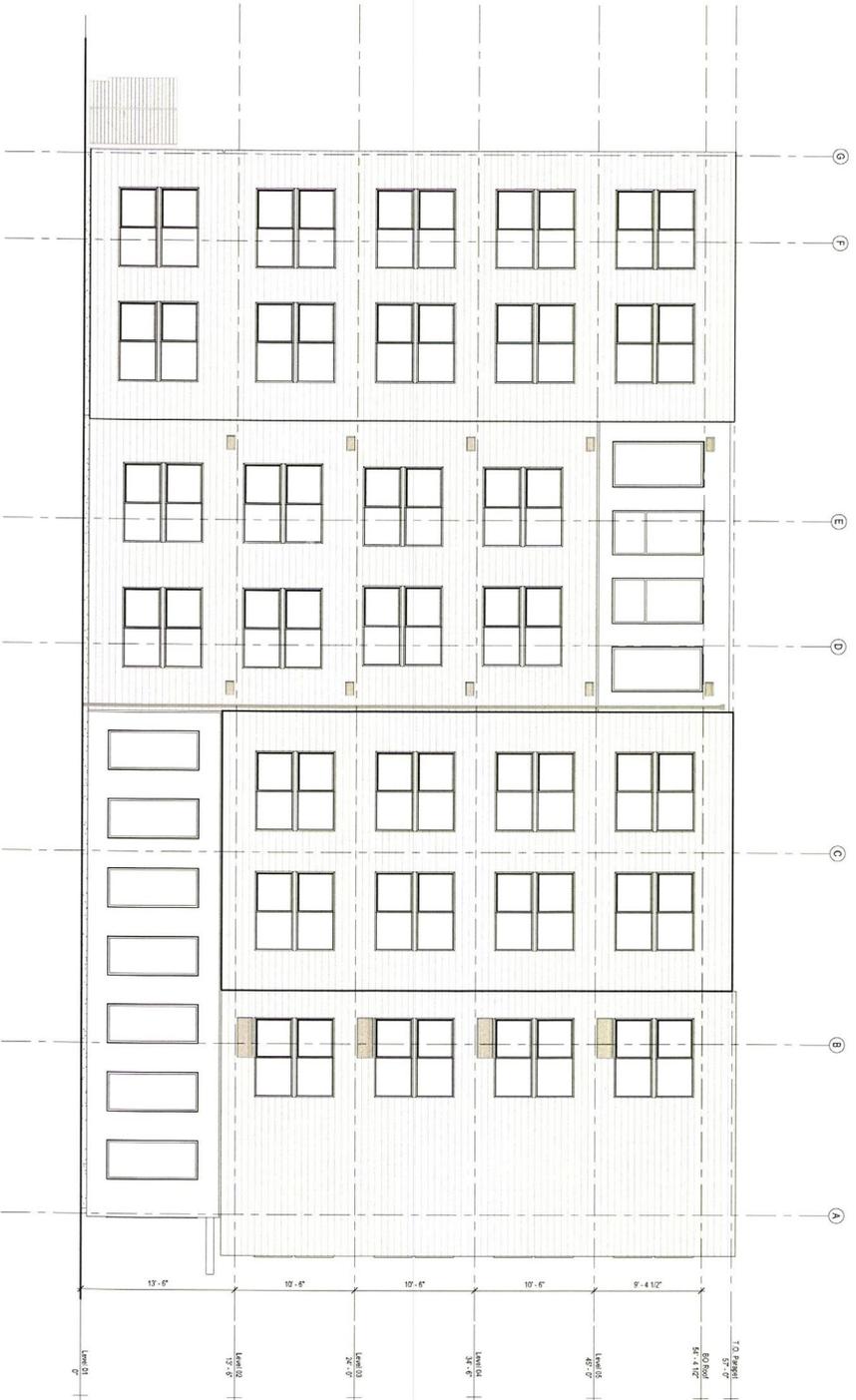
File No.	LU 19 - 244401 DZ
1/4 Section	2429
Scale	1 inch = 200 feet
State ID	1N1E15CC 12000
Exhibit	B Oct 28, 2019

C2.2 OVERALL PROPOSED SITE PLAN / SITE LIGHTING PLAN



Main Entry Lighting - Fixture F
 Egress Site Lighting - Fixture G
 Secondary Entry Lighting - Fixture H

C5 BUILDING DRAWINGS
C5.8 EXTERIOR ELEVATIONS



C-15

C5 BUILDING DRAWINGS
 C5.10 EXTERIOR ELEVATIONS



East Elevation
 3/32" = 1'-0"

W.P.A

WORKS PROGRESS ARCHITECTURE, LLP

All rights reserved.

C5 Building Drawings

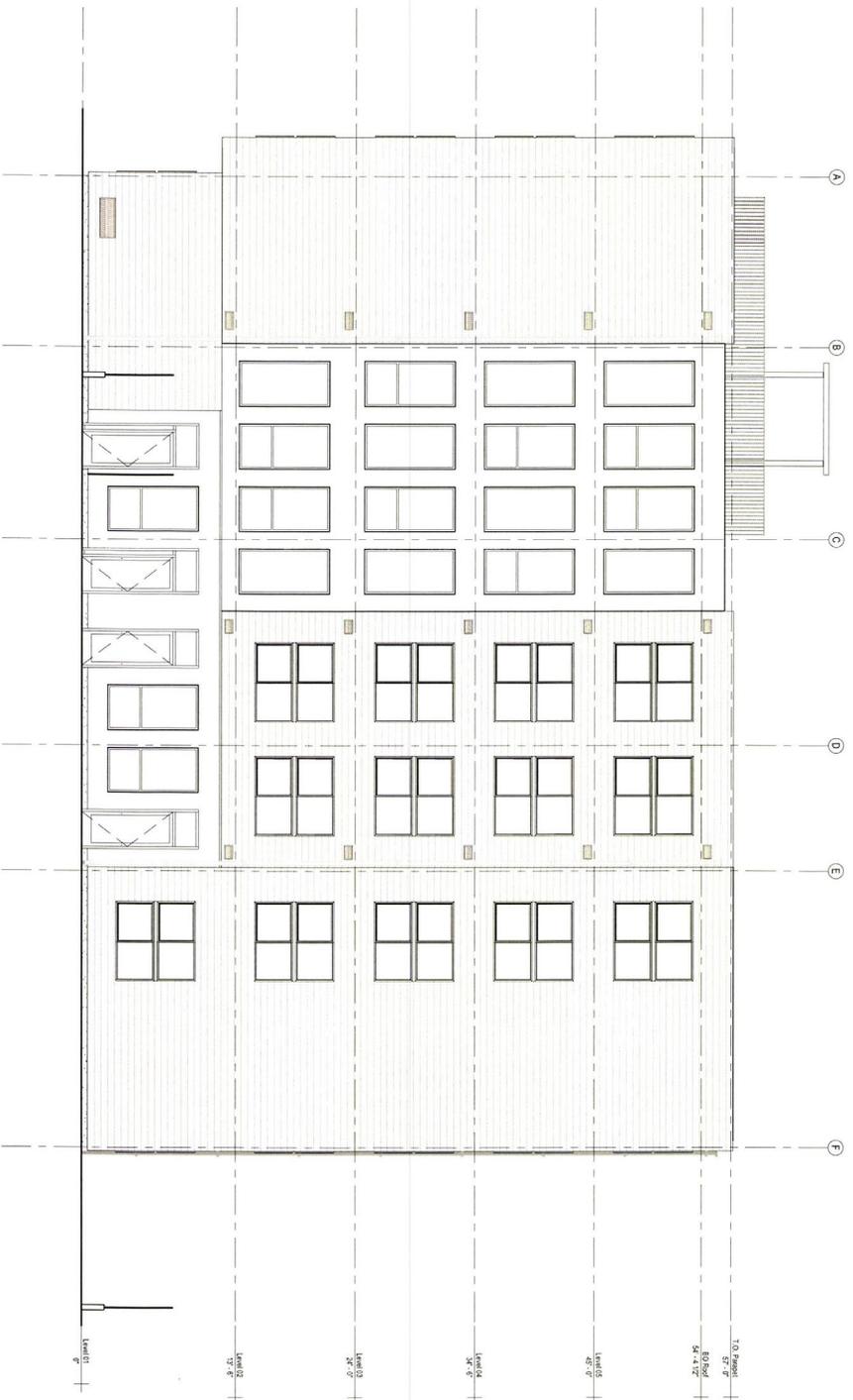
5632 N Montana Ave

LU 19-244401 DZ

01.31.2020 | Page 41

C.109

C5 BUILDING DRAWINGS
 C5.12 EXTERIOR ELEVATIONS



South Elevation
 3/32" = 1'-0"

C5 BUILDING DRAWINGS
C5.14 EXTERIOR ELEVATIONS



West Elevation
3/32" = 1'-0"

C.18