



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

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**Date:** May 13, 2020  
**To:** Interested Person  
**From:** Megan Sita Walker, Land Use Services  
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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 20-120426 DZM – NEW 3-STORY MIXED-USE BUILDING – BUILDING ‘D’**

#### **GENERAL INFORMATION**

**Applicant:** Max Taschek | William Kaven Architecture  
4075 N Williams Ave, #440  
Portland, OR 97227  
(503) 841-5239

**Owner:** MLK Failing 1 LLC  
3330 NW Yeon Ave #100  
Portland, OR 97210

**Site Address:** 3802 NE M L KING BLVD

**Legal Description:** BLOCK 1 LOT 2&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](mailto:jacquie.kingnapdx@gmail.com).  
**Business District:** Soul District Business Association, contact at [info@nnebaportland.org](mailto:info@nnebaportland.org)  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Jessica Rojas at [jessica@necoalition.org](mailto:jessica@necoalition.org).

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

**Proposal:**

The applicant is seeking Design Review approval for a new nineteen (19) unit, 3-story mixed-use building located on a 5,262 SF lot (5,145 SF after dedication) south of the southeast corner of NE Martin Luther King Jr. Blvd and NE Failing, in the Albina Community Plan District.

The proposed ground floor programming consists of retail, a storefront entry to a recessed residential entrance and courtyard, building services including a trash room, water riser room, and egress stair along NE MLK Jr. Blvd, and three (3) ground floor units further east on the site. The upper two floors consist of the remaining sixteen (16) units with an eco-roof with mechanical units 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 on side and rear elevations.

One (1) **Design Exception** is requested:

- Window Projections into the Right-of-Way (OSSC/32/#1) to reduce the separation requirement of 12’ between oriel windows (Standard ‘G’) to 6’-8” between the two oriel windows projecting over the public right-of-way along NE Martin Luther King Jr. Blvd.

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”.

*Note:* The subject site is immediately south of two (2) separate, but concurrent Design Reviews (LU 20-120437 DZM and LU 20-120395 DZM) each for a proposed new 3-story nineteen (19) unit mixed-use building. The subject site is also south of the recently approved 3-story eighteen (18) unit mixed-use building on the corner of NE MLK Jr Blvd and NE Failing (LU 19-194302 DZM).

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, Portland Zoning Code. The relevant criteria are:

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

**ANALYSIS**

**Site and Vicinity:** The project site is a 5,262 SF lot (5,145 SF after dedication) south of the southeast corner of NE Martin Luther King Jr. Blvd and NE Failing, 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 right-of-way (ROW) 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.

**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 20-120395 DZM – Separate yet concurrent Design Review for a new 3-story nineteen (19) unit mixed-use building north of the subject site with frontage along NE MLK Jr Blvd.
- LU 20-120437 DZM – Separate yet concurrent Design Review for a new 3-story nineteen (19) unit mixed-use building north of the subject site with frontage along NE MLK Jr Blvd.
- LU 19-194302 DZM – Design Review approval for a new 3-story eighteen (18) unit mixed-use building on the corner of NE MLK Jr Blvd and NE Failing on a separate site as a part of a phased development including the subject site.
- 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 are 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 **April 3, 2020**. The following Bureaus have responded with no issues or concerns:

1. Bureau of Transportation Engineering (See Exhibit E-1)
2. Life safety Division of BDS (See Exhibit E-2)

3. Site Development Section of BDS (See Exhibit E-3)
4. Bureau of Environmental Services (See Exhibit E-4)
5. Fire Bureau (See Exhibit E-5)
6. Water Bureau (See Exhibit E-6)

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on April 3, 2020. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

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

**Findings for P1 and D7:** The proposal successfully addresses the above-mentioned guidelines in the following ways:

- Enhancing the sense of place and identity of the King Neighborhood and the Martin Luther King Jr civic corridor starts at the site scale, the massing of the proposed building, and the elements of the proposal that support an active, occupiable edge

along the site’s frontage. The street level storefront is 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 adjacent 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 North 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, but throughout the courtyard and along the east lot line, which faces the adjacent residential zoned properties. The fenestration pattern and accent spandrel panels along the east and west facades 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-story massing, distinguishing it from the building base.
- Ground floor active uses are located along the site’s only frontage along NE Martin Luther King Jr Blvd. High quality materials such as brick, steel, and metal panel incorporate detailing of nearby buildings. 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 along the west-facing street frontage.
- Ground floor setbacks, generous canopies, and clear storefront at the street edge shelter and provide weather protection and engage pedestrians. Landscaping is proposed 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.

*These guidelines are 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.

**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.

**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 E1, E2, E3, and E5:** The proposal successfully addresses the above-mentioned guidelines in the following ways:

- The design incorporates deep painted steel canopies integrated with clear storefront at the street edge, and rich textured materials, such as brick, at building entrances to create a strong sense of enclosure at the street edge while supporting the visual interest of the building as it meets the pedestrian realm.
- While the location of the trash room next to the residential entry - located at the street edge along the site’s limited frontage - negatively impacts the pedestrian realm by limiting the amount of active frontage for this infill site, the use of storefront in front of the residential entry helps to minimize the compounding impact of adjacent (the blank walls) at the pedestrian realm.

- The recesses at the retail and residential lobby entries highlight points of entry while not diminishing the sense of enclosure along the street edge. The residential entry is emphasized with the addition of an extended canopy and additional lighting.
- The scale and detailing of the brick and storefront systems helps define a pedestrian scale at the sidewalk level of the building.
- The residential upper floors of the building are differentiated from the active ground floor through shifts in material and changes and scale of openings which differentiates the street-level facade.
- The shape of the building creates an internal courtyard to the north, which has been designed to pair with the building on the adjacent lot (LU 20-120437 DZM); 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. The extension of storefront in front of the residential lobby entrance along NE MLK Jr Blvd allows for increased views into this space, better connecting this internal activity to the to the pedestrian realm. The interior courtyard also brings light into the building and presents a place for usable outdoor area for building residents.
- 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.

*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:** The proposal successfully addresses the above-mentioned guidelines in the following ways:

- At ground level, setbacks and canopy along NE Martin Luther King Jr Boulevard allow for covered stopping area 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.
- 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.

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

**Findings for D2 and D5:** The proposal successfully addressed the above-mentioned guidelines in the following ways:

- The main entries to both the ground floor retail and residential lobby are accessed off site’s only frontage along NE Martin Luther King Jr. Boulevard. The building entries are architecturally defined using materiality, massing, landscaping, and canopies. The addition of clear storefront in front of the residential entry in place of the previously proposed gate allows increased transparency into the recessed lobby entry and courtyard beyond and serves to better relate to the adjacent retail entry.
- The use of storefront with an extended canopy at the residential entry also serves to highlight this primary entry into the building.
- The residential entry is architecturally differentiated from the adjacent retail space through the use of an extended canopy with additional lighting, and differentiated detailing.
- The proposal will create a well-lit sidewalk for pedestrians, creating a safe and activated environment at the street edge with recessed building entries facing the street with pedestrian scaled lighting. Additionally, the large areas of glass at the base of the building that will be lit from within, allow for additional illumination and opportunities to see and be seen at the pedestrian realm. Additionally, landscaped areas along building frontages and within the courtyard will also include pedestrian scaled lighting.

*These guidelines are 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 for D8:** Each facade of the building responds to its relationship to frontage and context while contributing to a coherent whole in the following ways:

- 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 areas of clear storefront – exposing internal active spaces at the at the street edge - engage the primary frontage along NE MLK Jr Blvd, 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. The viability of the inground climbing jasmine vines is critical to successfully addressing this guideline. As such, a letter from the Landscape Architect ensuring the viability of the proposed plantings has been provided. See Exhibit A-9 for additional information.

- Along the street frontage, the upper residential volume is visually and formally delineated from the building's base through oriel projections with variation in cladding material, 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 oriel window 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 northwest 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.
- 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 East façade includes arranging stacks of unit window openings in a balanced composition. Similarly, the shift in massing, material, and setback that occurs along the northwest frontage is employed along at northeast elevation. 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 north 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 north 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-18). 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) EXCEPTION TO “WINDOW PROJECTIONS INTO THE PUBLIC RIGHT-OF-WAY” IBC/32/#1**

Windows that project into the public right-of-way have a maximum width of 12’. When approved through design review, the width may vary.

**A. Projection.** Maximum projection of 4 feet into the right-of-way including trim, eaves and ornament.

**Findings:** The maximum projection of the oriels into the public right-of-way is 1’-4”. *This Criterion is met.*

**B. Clearance.** Clearance above grade as defined in Chapter 32, Section 3202.3.2 of the current Oregon Structural Specialty Code. (The 2004 edition of the Oregon Structural Specialty Code states that no projection is allowed for clearances less than 8 feet above grade. For clearances above grade greater than 8 feet, 1 inch of projection is allowed for each additional inch of clearance, provided that no such projection shall exceed a distance of 4 feet.)

**Findings:** Minimum clearance above grade is 14’-7” and the maximum projection of the oriels into the public right-of-way is 1’-4”. *This Criterion is met.*

**C. Area.** Maximum wall area of all windows which project into public right-of-way on a wall is 40% of the wall’s area.

**Findings:** Projecting wall area is under 40%. *This Criterion is met.*

**D. Wall Length.** Maximum width of any single window which projects into public right-of-way is 50% of its building wall length.

**Findings:** Projecting wall length is under 50%. *This Criterion is met.*

**E. Window Area.** Minimum of 30% window area at the face of the projecting window element. Projections greater than 2 feet 6 inches must have windows at all sides. Required side windows must be a minimum of 10% of side walls.

**Findings:** Front-facing window area of the projecting bay window exceeds the 30% requirement. With a maximum projection of the oriels into the public right-of-way of 1’-4”, the side walls are not required to be glazed. *This Criterion is met.*

**F. Width.** Maximum width of 12 feet for each projecting window element. When approved through Design Review, the width may vary provided the area of all windows on a wall which project into public right of way does not exceed 40% of the wall’s area and the width of any single projecting window element does not exceed 50% of its building wall’s length.

**Findings:** The proposed oriels have a maximum width of 12’. *This criterion is met.*

**G. Separation.** Minimum separation of 12 feet measured from other projecting window elements on the same elevation or plane of wall. When approved through Design Review, required separation may vary provided the area of all projecting window elements on a wall does not exceed 40% of the wall’s area and the width of any single projecting window element over the right-of-way does not exceed 50% of its building wall’s length.

**Findings:**

The proposed separation between projections is less than the required 12’ separation, with oriels spaces 6’-8” apart along NE MLK Jr. Blvd. This Criterion is not met but is approvable with (1) compliance with standards C, D, and F. With regard to Design Review consideration, the building is stronger and more compelling, better meeting guidelines P1, D7, and D8, with the proposed bay window as follows:

- typologically appropriate given the building’s architectural expression narrow bays;
- Relates to older building fabric in the area with narrower bays that respond to building fenestration below;
- proportionally appropriate to accent the project’s primary frontage along NE MLK Jr. Blvd.
- Effective design to modulate building mass to pedestrian scale;
- Containing primary living/dining area which will provide eyes on the street below;
- Restrained projection depth (1’-4”) with recessed glazing and quality materials.

*This criterion is met.*

*This design exception merits approval.*

**(3) 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 foot 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 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 Martin Luther King Jr. Blvd, through the extended storefront in front of the main residential entry on NE Martin Luther King Jr. Blvd, providing 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 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 the NE MLK Jr. Blvd street frontages through program with clear glazed storefronts into retail and the residential courtyard, building setbacks, landscaping, generous canopies and quality and robust materials such as brick and metal. Additionally, 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 nineteen (19) residential units, ground floor retail, and a residential outdoor courtyard.

Approval of the following **Design Exception** request:

- *Window Projections into the Right-of-Way (OSSC/32/#1).* To reduce the separation requirement of 12’ between oriel windows (Standard ‘G’) to 6’-8” between the two oriel windows projecting over the public right-of-way along NE Martin Luther King Jr. Blvd.

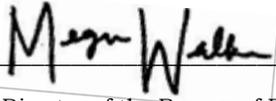
Approval of the following **Modification** are requests:

- **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”.

Approved per attached Exhibits C-1 through C-30 and C-32 through C-54, signed and dated May 11, 2020, subject to the following conditions:

- As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 20-120426 DZM." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- No field changes allowed.

**Staff Planner: Megan Sita Walker**

Decision rendered by:  on May 11, 2020

By authority of the Director of the Bureau of Development Services

**Decision mailed: May 13, 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 February 19, 2020, and was determined to be complete on March 20, 2020.

*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 February 19, 2020.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless extended by the applicant, **the 120 days will expire on: July 18, 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, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received by 4:30 PM on May 27, 2020. **Towards promoting social distancing during the COVID-19 pandemic, the completed appeal application form must be e-mailed to [BDSLUSTeamTech@portlandoregon.gov](mailto:BDSLUSTeamTech@portlandoregon.gov) and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. An appeal fee of \$250 will be charged. Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations for the appeal of Type II and IIX decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in the file, please contact the planner listed on the front of this decision. The planner can provide some information over the phone. Please note that due to COVID-19 and limited accessibility to files, only digital copies of material in the file are available for viewing. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <https://www.portlandoregon.gov/citycode/28197>.

**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 on or after **May 28, 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.

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

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

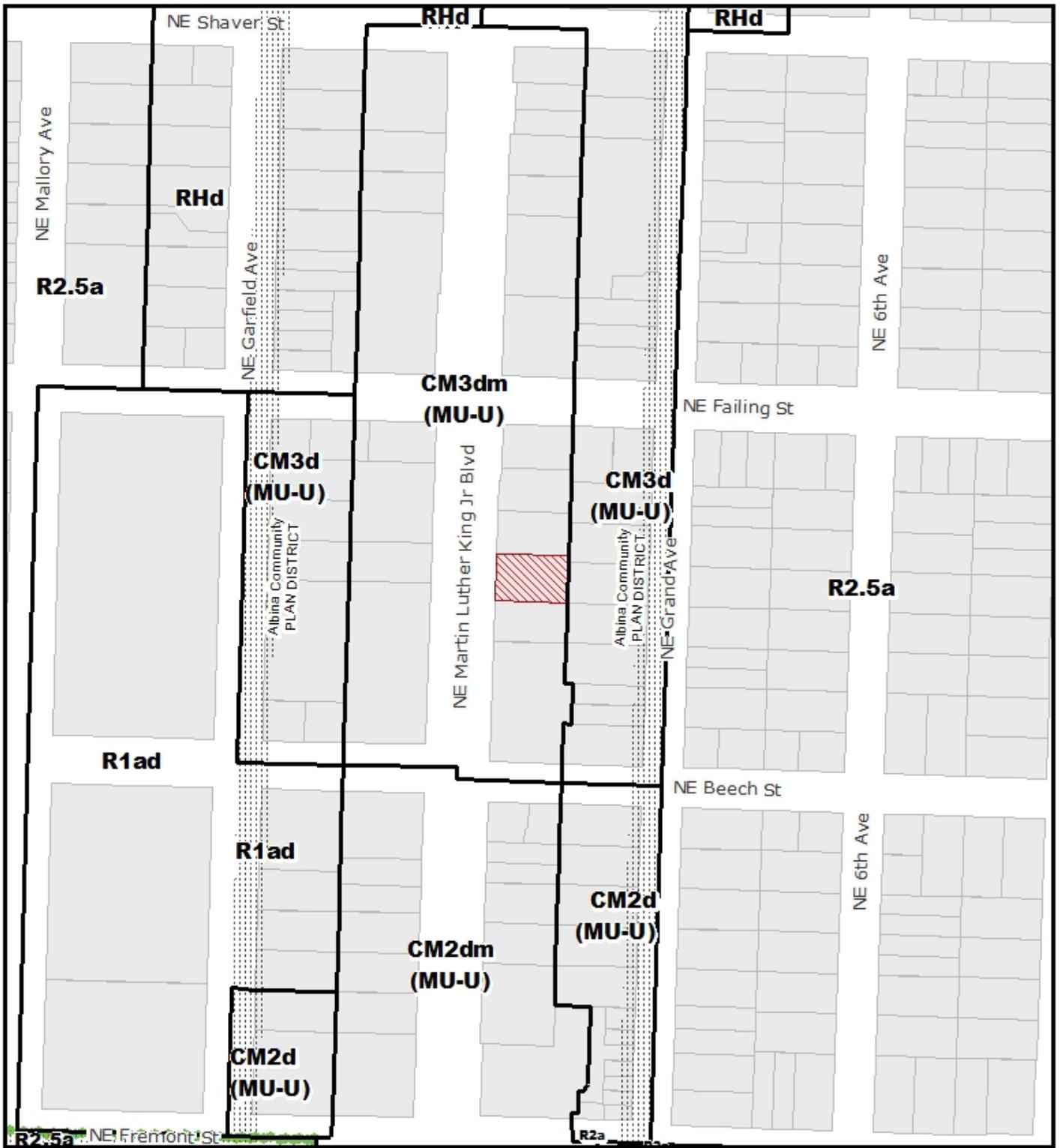
#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
  - 1. Original Project Description & Response to Approval Criteria
  - 2. Original Drawing Set
  - 3. Response to the Incomplete letter, Rec'd March 20, 2020
  - 4. Revised Project Description/ Narrative, Rec'd March 20, 2020
  - 5. Response to Issues to Consider in Incomplete Letter, Rec'd April 7, 2020
  - 6. Not Used
  - 7. Sketches, Rec'd April 27, 2020 – Not Approved/ For Reference Only
  - 8. Revised Drawing Sheets, Rec'd April 29, 2020 – Not Approved/ For Reference Only
  - 9. Memo from Landscape Architect, Rec'd April 29, 2020
  - 10. Revised Drawing Set, Rec'd May 1, 2020
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Floor Plan – Ground Floor
  - 3. Floor Plan – Second Floor
  - 4. Floor Plan – Third Floor
  - 5. Floor Plan – Roof
  - 6. Elevations – West Elevation/ NE MLK Jr Blvd (attached)
  - 7. Elevations – North Elevation (attached)
  - 8. Elevations – East Elevation (attached)
  - 9. Elevations – South Elevation (attached)
  - 10. Building Section – North/South
  - 11. Building Section – East/West
  - 12. Enlarged Elevation & Section - Storefront
  - 13. Details – Storefront Head at Canopy
  - 14. Details – Storefront Sill and Jamb
  - 15. Details – Storefront Door Sill and Mullion
  - 16. Details – Storefront Head at Metal Panel and Sill at Brick
  - 17. Details – Brick at Corner and Storefront Jamb at Brick

18. Details – Coping at Box Rib and Box Rib at Brick
  19. Details – Box Rib at Corner and Brick base
  20. Details – Box Rib at splice and Box Rib at Window Head
  21. Details – Box Rib at Window Head and at Sill
  22. Details – Box Rib at Soffit and at AC Port
  23. Details – Box Rib at Fiber Cement and base
  24. Details – Fiber Cement at Coping and base
  25. Details – Fiber Cement at Corner and AC Port
  26. Details – Fiber Cement at Vertical and Horizontal break
  27. Details – Fiber Cement at Window Head and Sill
  28. Details – Fiber Cement at Window Jamb and Door Jamb
  29. Details – Fiber Cement at Door Head
  30. Details – Door Sill at Balcony
  31. Not Used
  32. Detail – Steel Bike Runnel at Stair
  33. Material Schedule
  34. Landscape Plan – Ground Level
  35. Planting Palette – Ground Level
  36. Landscape Plan – Courtyard
  37. Planting Palette – Courtyard
  38. Landscape Plan – Roof
  39. Exterior Lighting Plan
  40. Utility Plan
  41. Specifications - Materials – Brick Masonry Veneer
  42. Specifications - Materials – Metal Panel
  43. Specifications - Materials – Fiber Cement
  44. Specifications - Windows
  45. Specifications - Doors
  46. Specifications – Storefront
  47. Specifications - Storefront
  48. Specifications - Glazing
  49. Specifications – Light Fixture
  50. Specifications – Light Fixture
  51. Specifications – Light Fixture
  52. Specifications – Light Fixture
  53. Specifications – Rooftop Mechanical
  54. Specifications – Bike Rack
- D. Notification information:
1. Mailing list
  2. Mailed notice
- E. Agency Responses:
1. Bureau of Transportation Engineering
  2. Life safety Division of BDS
  3. Site Development Section of BDS
  4. Bureau of Environmental Services
  5. Fire Bureau
- F. Correspondence: none
- G. Other:
1. Original LU Application
  2. Incomplete Letter sent, March 12, 2020
  3. Email Correspondence between staff and the applicant

**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).**

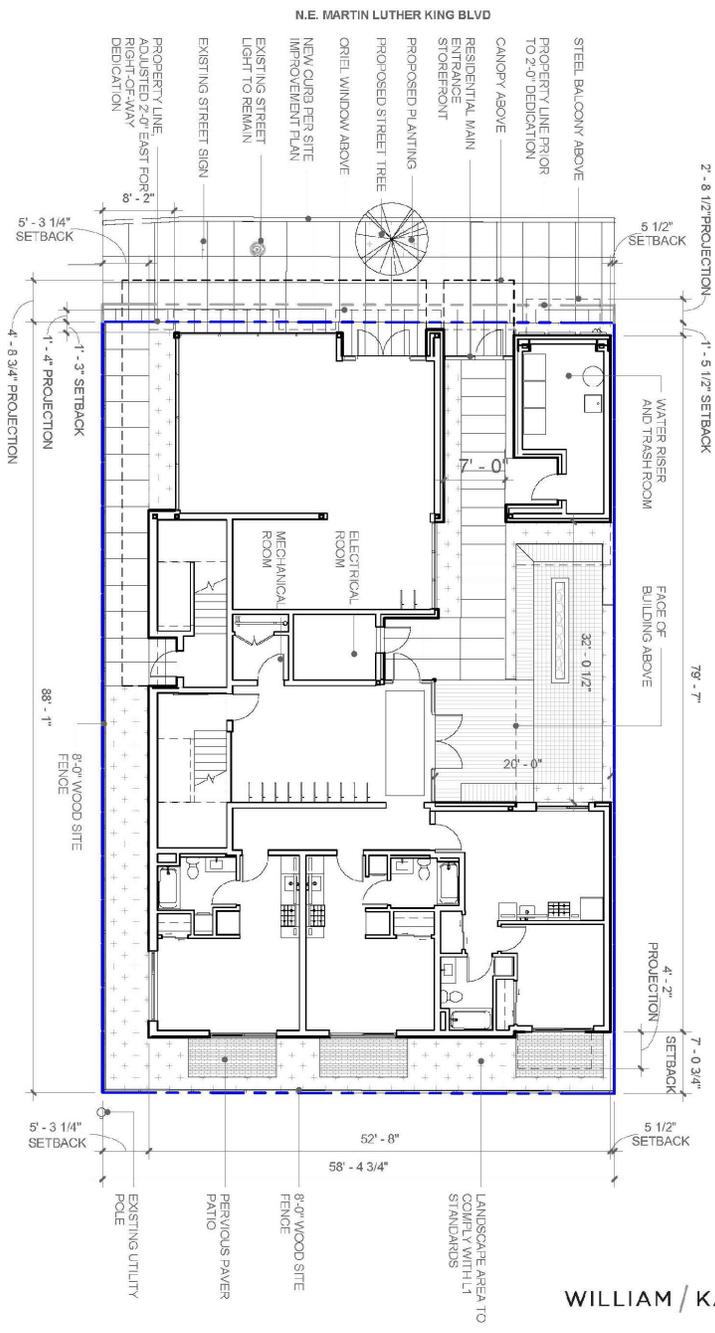


**ZONING**   
 NORTH  
 ALBINA COMMUNITY PLAN DISTRICT

 Site

|             |                    |
|-------------|--------------------|
| File No.    | LU 20 - 120426 DZM |
| 1/4 Section | 2631               |
| Scale       | 1 inch = 163 feet  |
| State ID    | 1N1E23CC 9700      |
| Exhibit     | B Feb 25, 2020     |

\*Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner *[Signature]*  
 Date 05-11-2020  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



WILLIAM / KAVEN

1 SITE PLANS  
 SCALE: 1" = 20'

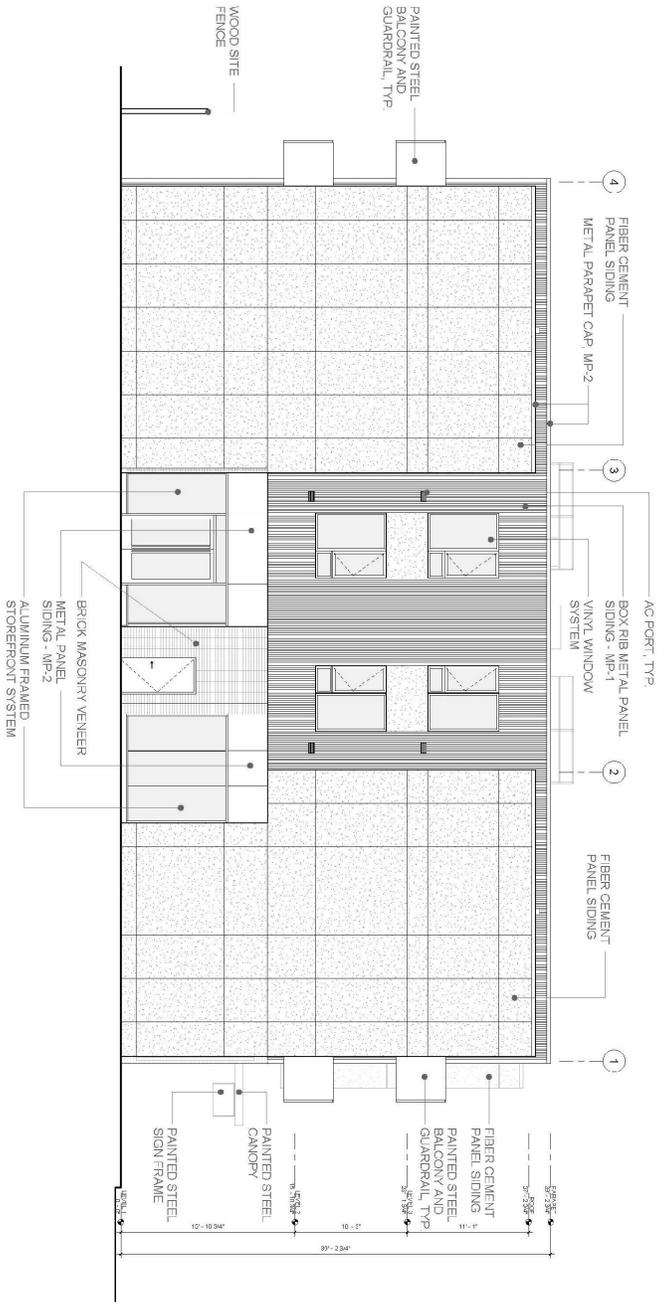
SITE PLAN

TYPE II DESIGN REVIEW SUBMITTAL

3802 NE MLK JR BLVD  
 LU 20-120425 D2M

C.1





\*Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner: *Megan Miller*  
 Date: 05-11-2020  
 \*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"

NORTH ELEVATION

TYPE II DESIGN REVIEW SUBMITTAL

3802 NE MLK JR BLVD  
 LU 20-120425 D2M

C.7

\*Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner Mary M. Allen  
 Date 05-11-2020  
 \*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 20-120426 D2M

C.8

WILLIAM / KAVEN

