

**IN THE CITY COUNCIL OF THE CITY  
OF  
PORTLAND OREGON**

**IN THE MATTER OF AN APPEAL  
BY STEVE PINGER REPRESENTING THE NORTHWEST DISTRICT ASSOCIATION OF  
A PROPOSED NEW FIVE-STORY MIXED-USE BUILDING AT 1137 NW 23RD AVENUE  
IN THE NORTHWEST PLAN DISTRICT**

**LU 20-123610 DZM**

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**FINDINGS AND CONCLUSIONS**

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**ADOPTED BY THE CITY COUNCIL ON  
JULY 21, 2021**

**(DENIAL of the Appeal)**

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PORTLAND, OREGON**

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**FINDINGS AND CONCLUSIONS**

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The findings and conclusions of the City Council in this matter are set forth below.

**GENERAL INFORMATION**

**Applicant:** Richard Dobrot, GBD Architects Incorporated  
1120 NW Couch St, Suite 300, Portland OR 97209  
(503) 548-2332 www.gbdarchitects.com

**Representative/  
Owner** Seth Garey, CE John Properties 71 LLC  
1701 SE Columbia River Dr, Vancouver WA 98661

**Site Address:** **1137 NW 23RD AVE**

**Legal Description:** BLOCK 2 LOT 1&2, GOLDSMITHS ADD; BLOCK 2 LOT 3&4,  
GOLDSMITHS ADD

**Tax Account No.:** R331300220, R331300240, R331300240

**State ID No.:** 1N1E33BB 03000, 1N1E33BB 03100, 1N1E33BB 03100

**Quarter Section:** 2927

**Neighborhood:** Northwest District, contact Greg Theisen at 503-227-5430.

**Business District:** Nob Hill, contact Nob Hill at nobhillportland@gmail.com.

**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

**Plan District:** Northwest

**Other Designations:** None

**Zoning:** **CM2 (MU-U)d, m;** Commercial/Mixed Use 2 (CM2) with Design (d) and Centers Main Street (m) overlays.

**Case Type:** **DZM,** Design Review with Modification requests

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

**Proposal:**

The applicant seeks Design Review approval for a proposed new five-story mixed-use building, with 74 apartment units on four floors above approximately 10,000 sf of ground level retail, located in the Northwest Plan District. Proposal also includes below

grade parking for 44 cars, one B sized loading space, and 91 bikes, which will be all accessed off NW Northrup Street. Primary cladding materials include 3 colors of brick, metal panels, synthetic stucco, ground level aluminum and wood storefront glazing, commercial-grade vinyl windows above, metal canopies, and painted concrete at the base.

The following four (4) Modifications are requested:

1. Bike Parking – Stall Widths (PZC 33.266.220.C.3.b). Request to reduce the width of the vertically hung bike parking spaces from 24” to 18”.
2. Transit Street Main Entrance - Location (PZC 33.130.242.C.3.c). Request to locate the proposed main entrance to the residential portion of the building on NW Marshall, approximately 70 feet from NW 23rd Avenue (transit street).
3. Setbacks – L3 Landscape (33.130.215.B.2.b). Request to alter the required L3 landscape screening to the west due to substantial grade differences.
4. Vehicle Parking – Stall Size (33.130.266.130 Table 266-4). Request to have two stalls be slightly obstructed by structural columns at the front of the stall, effectively reducing the stall depth to 15'-0” instead of the required 16'-0”.

Design Review is required for new development in a design overlay zone (PZC 33.420.041). A Type III procedure is required because this development is in a design overlay zone and exceeds the value of \$2,366,000 (PZC 33.825.025). Modifications are required because the applicant is requesting to not meet the standards indicated above.

**Relevant Approval Criteria:**

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

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

## ANALYSIS

**Site and Vicinity:** The site is located in the Northwest Plan District on Northwest 23rd Avenue between Northwest Marshall Street and NW Northrup Street. It is roughly 100 feet by 200 feet and is zoned CM2 d/m, Mixed Used Commercial with a Design and Main Street overlay. NW 23rd Avenue is a pedestrian oriented, commercial “backbone” of the Northwest Plan District and is designated a Streetcar Main Street.

Two existing one-story commercial buildings and a surface parking area on the site will be demolished for this proposal. The site was previously occupied by a variety of businesses, most notably the Quality Pie restaurant (vacant since 1992); Shogun’s Gallery (closed 2009); and more recently the Red Onion restaurant. The topography has a substantial amount of slope, with just over ten feet of grade change from the highest point of the site at the southwest corner (Elevation 113.66’) to the lowest point at the northeast corner (Elevation 102.85’).

The site is located within the Northwest Pedestrian District. The City’s Transportation System Plan classifies the surrounding streets as follows:

- NW 23<sup>rd</sup> Avenue: Neighborhood Main Street, Major Transit Priority, Neighborhood Collector Traffic, Major City Walkway, and Local Service Bikeway.
- NW Northrup Street: Neighborhood Walkway and Local Service for all other modes.
- NW Marshall Street: Local Service for all modes.

**Zoning:** The Commercial/Mixed Use 2 (CM2) zone is a medium-scale zone intended for sites in a variety of centers, along corridors, and in other mixed-use areas that have frequent transit service. 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 four 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, provide a strong relationship between buildings and sidewalks, and complement the scale of surrounding residentially zoned areas.

The Design Overlay Zone (d) promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review. In addition, design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

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

The Northwest Plan District implements the Northwest District Plan, providing for an urban level of mixed-use development including commercial, office, housing, and employment. Objectives of the plan district include strengthening the area's role as a commercial and residential center. The regulations of this chapter: promote housing and mixed-use development; address the area's parking scarcity while discouraging auto-oriented developments; enhance the pedestrian experience; encourage a mixed-use environment, with transit supportive levels of development and a concentration of commercial uses, along main streets and the streetcar alignment; and minimize conflicts between the mixed-uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary.

**Land Use History:** City records do not indicate any relevant prior land use reviews.

## **PROCEDURAL HISTORY**

- **Approval Criteria**  
For the purposes of this review, the approval criteria are those that were in effect at the time of the Project's application (February 26, 2020).
- **Land Use Application: Submitted on February 26, 2020:**  
The application was deemed complete on August 20, 2020. A hearing was scheduled for October 15, 2020 - 56 days after being deemed complete. On September 30, 2020, the applicant requested that the hearing date be postponed, and on March 9, 2021, the applicant requested a new hearing date be set for May 6, 2021. On March 29, 2021, a Revised Notice of Proposal in Your Neighborhood was mailed for the rescheduled hearing date of May 6, 2021.
- **Design Commission Hearing: May 6, 2021**  
The Design Commission approved the Proposal.
- **Appeal Form Submitted: June 4, 2021:**  
Submitted by the Northwest District Association – represented by Steve Pinger.
- **Notice mailed for July 14, 2021 City Council Hearing: June 10, 2021.**
- **City Council Appeal Hearing #1: July 14, 2021.**

The City Council held a de novo public hearing. The hearing was in the form of a virtual meeting due to COVID 19, consistent with the governor's Executive Order 20-16. The record placed before the Council included <https://efiles.portlandoregon.gov/record/14398402> in addition to the testimony on July 14. The City Council closed the public record on July 14, 2021 at the close of the public hearing and directed the applicant and City staff to return to the City Council on July 21, 2021 for adoption of the Final Findings and Decision.

▪ **City Council: July 21, 2021.**

City Council unanimously adopted the Final Findings and Decision rejecting the appeal and upholding the Design Commission decision.

## **ANALYSIS**

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**Land Use History:** City records do not indicate any relevant prior land use reviews.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **September 25, 2020** and a *Revised* Notice of Proposal in Your Neighborhood was mailed on **March 29, 2021**. The following Bureaus have responded with no issue or concerns:

- Bureau of Environmental Services (Exhibit E1)
- Bureau of Transportation Engineering and Development Review (Exhibit E2)
- Fire Bureau (Exhibit E3)
- Bureau of Parks, Forestry Division (Exhibit E4)
- Site Development Section of Bureau of Development Services (Exhibit E5)
- Life Safety Section of Bureau of Development Services (Exhibit E6)

**Neighborhood Review** A "Notice of Proposal in Your Neighborhood" was mailed **September 25, 2020** and a *Revised* Notice of Proposal in Your Neighborhood was mailed on **March 29, 2021**. Five written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

1. Steve Pinger, NWDA Planning Committee, 9/24/2020, noted that while the NWDA generally supports the design concept and the modifications, they note that the proposal may not meet guidelines P1, D3, D7, D8, E5 (Exhibit F1). The issues raised area related to: massing, street trees, location of trash room, integration of HVAC, dark brick, and canopy cover.

BDS staff response: A response to the NWDA email was received from the applicant on 4/23/2021 (Exhibit A25), which is copied below. Staff has incorporated relevant elements from this response into the findings section of the ZONING CODE APPROVAL CRITERIA.

- *P1: While we acknowledge the building is taller than most other existing buildings in the area, it is both within the allowable building height limit and incorporates several design elements that address the four-story building height datum. A direct result of the step-down height at the west edge is a that significant portion (almost a third) of the north and south elevations are in fact 4 stories tall. The southwest parapet detail carries thru the south and southeast elevations to delineate this datum. Additionally, the middle portion of the east elevation which makes up approximately 40% of the length has a brick cornice detail at this datum height that is further enhanced with a 6-inch step back to the upper floor.*

*The building façade is broken into three distinct blocks to reflect the district's pattern of partial block massing. This is emphasized with different brick colors and detailing, window configurations, and ground floor storefront and canopy*

*details. The recesses comply with the two-foot depth requirement for façade articulation.*

- *D3: The Urban Forester has indicated that the two oak trees would need to be pruned too much to facilitate development, and that they have been line cleared repeatedly for overhead power lines. Regarding the gap on 23rd, we have been working with PBOT/UF/Streetcar to propose adding a tree in that location.*

*On NW Northrup, due to required utility line poles, streetlight signal control box, and the proposed underground PGE transformer vault and switch vault and associated conduit paths, and the proposed driveway, there is not space for a tree, nor are there any trees today. We are looking into the possibility of applying for a sidewalk permit (post construction) for a tree tub (i.e., raised planter) to provide a small tree in this location.*

- *D7: The trash room is accessed via a path at the southwest edge of the building, approximately 40 feet from the property line. The path is approximately 4 to 5 feet below the grade of the adjacent property's driveway and will be screened with a 6-foot-tall concrete retaining wall and 3-foot wood fence (measured from our side of the property line) as well as a planter for tree screening. We are looking into a time-of-day service agreement with the trash hauler to minimize disturbances from early morning pickups. We think that other possible access points to the trash room, i.e., internal corridor with doors at the face of the building will create a less desirable street frontage with more blank walls. It should be noted that the current trash dumpster location is in the same general area.*
- *D8: Yes, the thru wall HVAC units are integrated into the façade design with louvers that match the window widths or combined into the metal panels at recessed window locations.*
- *E5: At least for the time being, Portland's climate is still a heating dominant one, where heating is required more than cooling. While the dark color brick may contribute to a very small degree of additional cooling, it is more likely that it will provide a buffer to the amount of heating required. Perhaps a more critical feature of the south façade is the energy performance of the glazing which is why a window with a low U-value is being selected. Additionally, a significant number of the south facing windows are recessed 2 feet to provide summer shading for those apartments.*

*The intent is to provide a variety of canopy designs that enhance the pedestrian visual experience and lend a unique character to each of the ground floor retail spaces. Most of the canopies are 7 or 8 feet deep to provide generous weather protection. The gaps between canopies on NW 23rd represent approximately 25% of the entire frontage and relate to the structural expression of the building apparent with the storefront bays and brick columns.*

2. Carla Charlton, 9/23/2020, noted interest in participating in the hearing and the links in the first Public Notice were not correct (Exhibit F2).

*BDS staff response: The agenda link has been updated. Here is a link to the most updated drawings and information: [https://portlandoregon.gov-my.sharepoint.com/:f/g/personal/grace\\_jeffreys\\_portlandoregon\\_gov/EidwvtExheVGk\\_YUCRJ48dwBxPlwUHKEEEa0c44G0quD9w?e=YmKm4U](https://portlandoregon.gov-my.sharepoint.com/:f/g/personal/grace_jeffreys_portlandoregon_gov/EidwvtExheVGk_YUCRJ48dwBxPlwUHKEEEa0c44G0quD9w?e=YmKm4U)*

*Street trees are governed by Urban Forestry. Urban Forestry, in their response dated September 14, 2020, noted that the two larger Oaks can be removed and replaced. The development will be subject to Urban Forestry standards and requirements during the permit review process (Exhibit E4).*

3. Tom Gilles, 9/28/20, note concerns with any loss of historic fabric and increased traffic (Exhibit F3).

BDS staff response: *This proposal is on the west side of NW 23<sup>rd</sup> and no homes will be removed. The site is about 100' deep to the west, and two existing one-story commercial buildings and a surface parking area will be demolished. Potential increases in traffic from proposed development is outside the scope of design review.*

*The purview of design review includes elements of the project that relate to the approval criteria, which in this case, are the Community Design Guidelines and 33.825.040 Modifications That Will Better Meet Design Review Requirements. Design review has no authority to reduce or change allowances provided in the Zoning Code.*

*Development allowances and requirements in the Zoning Code (such as the number of required parking spaces, density, size, and height) are established in a legislative process with review and approval by the Planning and Sustainability Commission (PSC) and City Council. Concerns regarding these, or other development regulations, should therefore be directed to the PSC or Bureau of Planning and Sustainability Staff (BPS) Staff <https://www.portlandoregon.gov/bps/index.cfm>.*

4. Paul Phillips, 10/14/2020, noted concern that the proposal contained insufficient parking (Exhibit F4).

BDS staff response: *Parking requirements are outside the scope of design review. For this proposal, there no minimum parking is required because this project is located in the Northwest Plan District. (Reference: Portland Zoning Code, Chapter 33.562 Northwest Plan District, Section 33.562.280.B Minimum Parking). Please see BDS staff response under item 3 above regarding the purview of design review and how development allowances are established.*

5. James Cutler, 4/9/2021, noted concern with adding density (Exhibit F5).

BDS staff response: *The amount of density is outside the scope of design review. For this site, development allowances are based on FAR, size and height rather than density. Please see BDS staff response under item 3 above regarding the purview of design review and how development allowances are established.*

## **ZONING CODE APPROVAL CRITERIA**

### **(1) DESIGN REVIEW (33.825)**

#### **33.825.010 Purpose**

Design Review ensures:

- That development conserves and enhances the recognized special design values of a site or area;
- The conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district;
- That certain types of infill development will be compatible with the neighborhood and enhance the area; and
- High design quality of public and private projects.

#### **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 the site is within the Northwest Plan District, the applicable approval criteria are listed in *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.

*The City Council has considered all guidelines and has addressed only those guidelines considered applicable to this project. Additionally, the findings have been organized under three tenets, "Context", "Public Realm", and "Quality and Permanence".*

## **CONTEXT**

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

**Findings:** The site is within the designated "Streetcar Main Streets Urban Character Area", and the proposal responds to the area's desired characteristics and traditions as follows:

*Appendix J, Urban Character: District-wide Considerations* While the emphasis of the Desired Characteristics and Traditions statements that follow is on highlighting the distinguishing characteristics of each urban character area, development throughout the Northwest District should contribute to maintaining the district's architectural scale and its fine-grain pattern of development. New buildings and additions that are taller than the two-to four-story building height that is predominant in the district should have upper stories stepped back in order to contribute to more consistent streetscape and to maintain neighborhood scale. Also, the street frontage of large projects should be divided into distinct components that reflect the district's established pattern of partial block massing.

Council finds that the proposal responds to these "district-wide considerations" in several important ways. They encourage new buildings that are taller than four stories to incorporate step backs to the upper stories to both contribute to a more consistent streetscape and to maintain neighborhood scale. These considerations include flexible terms like "should" and "contribute" to "a more consistent" streetscape and neighborhood scale and clearly allow the City the discretion to apply these terms to all or some of the "upper stories." These considerations also do not mandate any particular step back distance if step backs are proposed as part of a design solution.

The appellant has argued that the *Appendix J, Urban Character: District-wide Considerations* is the guideline and requires the Design Commission and the City Council to mandate a step back along NW 23<sup>rd</sup> Avenue, at a greater distance than has been proposed. The Council rejects this interpretation that *Appendix J, Urban Character: District-wide Considerations* is the guideline. The Guideline here is **P1. Plan Area Character** which asks to "Enhance the sense of place and identity by incorporating site and building design features that respond to the area's desired characteristics and traditions". This guideline then references *Appendix J* for direction on the "desired characteristics and traditions" within the Northwest District Plan.

Additionally, *Appendix J, Urban Character: District-wide Considerations* are only one aspect of the of the "desired characteristics and traditions" for this site within

the Northwest District Plan. These are general districtwide considerations, and the three *Appendix J, Urban Character Area: Streetcar Main Streets* sections (below) which contain considerations more specific to this location.

The guidelines are intended to be flexible, offering optionality in how to address the overall direction of the guideline. In this case, the objective of *Appendix J, Urban Character: District-wide Considerations* is to respond to general neighborhood context and scale through design treatments of the entire building and upper stories that reflect the scale of surrounding uses. We reject the idea that a single element of a design proposal can be isolated from the context of the remaining architectural features. Instead, it is the totality of the design and how successfully it responds to the subject guideline that is central to our design review. Council concurs with the Design Commission that the proposal successfully meets *Appendix J, Urban Character: District-wide Considerations* in at least the following ways.

The proposed building configuration responds to the architectural scale and the fine-grain pattern of the district in the following ways:

- The building façade is broken into three distinct “blocks” to reflect the district’s pattern of partial block massing. These three “blocks” are intended to reflect lot and building frontage lengths of the early twentieth century and reinforce the pattern of partial block massing. The Northwest 23<sup>rd</sup> Avenue frontage is split into a central massing of 78 feet wide and book ended with two smaller facades of 37 and 47 feet wide. These divisions are emphasized with different brick colors and detailing, window configurations, and ground floor storefront and canopy details. The recesses between them comply with the two-foot depth requirement for façade articulation.
- This predominant brick clad building with split-block massing and storefront windows with canopy protection and outdoor dining options reflects the “district’s architectural scale and its fine-grain pattern of development.”
- The ground floor is delineated to accommodate a variety of retail tenant sizes, with larger tenant spaces anchoring the corners and four smaller tenant spaces in between, each with a unique but complementary storefront character. This highly active ground floor with upper story residences continues the "historic use patterns of the district" and contributes to a “more consistent streetscape”.
- While the building is taller than most existing buildings in the area, it is within the allowable building height limit, and design elements have been incorporated to address the four-story building height datum. A direct result of the step-down height at the west edge is that a significant portion (almost a third) of the north and south elevations are in fact 4 stories tall. The southwest parapet detail carries thru the south and southeast elevations to delineate this datum. Additionally, the middle portion of the east elevation which makes up approximately 40% of the length has a brick cornice detail at this datum height that is further enhanced with a 6-inch step back to the upper floor. The upper fifth floor along the east frontage does not incorporate a step back but instead incorporates a four-story datum to maintain “a more consistent streetscape and neighborhood scale”. Council finds that this four-story datum and five story height along NW 23<sup>rd</sup> is consistent with the pattern in the area, appropriate for this location, and maintains consistent scale with the 6-story Good Samaritan building frontage directly across NW 23<sup>rd</sup> from the proposed project.
- Locating the massing east on the site towards both the commercial area of NW 23<sup>rd</sup> and the hospital is a successful response to the guideline and allows the project to shift mass away from the smaller-scaled residential area to the west.

Council finds that these measures, taken together, successfully respond to and are consistent with Guideline P.1. Council therefore specifically rejects the Appellant's argument that the guideline imposes an implied but mandatory step back of some distance along NW 23<sup>rd</sup> Avenue or that a step back on all upper stories is the only way to meet this guideline. The project has proposed a myriad of architectural features that together demonstrate that the project "contributes to a more consistent streetscape and helps maintain neighborhood scale". Lastly, Council finds that Appendix J, cited by the Appellant, is an excerpt from the Northwest District Plan, Amended Design Guidelines and is not itself a Community Design Guideline but is instead a reference document for the area's "Desired Characteristics and Traditions". The Community Design Guideline P1 contains a reference to the "area's desired characteristics and traditions" and notes that one can review the appendices for background on those characteristics and traditions.

*Appendix J, Urban Character Area: Streetcar Main Streets: Architecture: Main streets like NW 23<sup>rd</sup> Avenue, located along the original streetcar routes, have historically served as the primary focus for commercial activity in the Northwest District. Characteristic architectural elements of commercial buildings along the main streets include: buildings located up against sidewalks, large storefront windows, often with transom lights; awnings; entrances typically at sidewalk level; flat roofs and cornices or ornamented parapets; masonry construction, and building heights of one to four stories (upper floors were usually designed for residences). The main streets also include block, split block, and courtyard apartment buildings; as well as some early twentieth century wood frame houses, mostly located along northern portions of NW 23<sup>rd</sup> Avenue and converted to commercial uses.*

The proposed design reinforces the desired Main Street Architectural character of Northwest 23<sup>rd</sup> Avenue in numerous ways.

- The predominately brick clad building is articulated in a split-block massing, with tall storefront windows, with generous canopies to protect pedestrians and provide for outdoor dining opportunities.
- The main street characteristic of a four-story height datum is recognized and acknowledged in two ways. At the central East building, the datum is accentuated with a small projecting brick cornice detail and the upper floor is set back six inches from the wall below (7 ½" from the projecting cornice line). The South Building emphasizes this datum with its typical floor reveal detail but also carries the line of the fifth-floor terrace parapet thru the south and east elevations.

*Appendix J, Urban Character Area: Streetcar Main Streets: Urban Pattern: Commercial buildings typically abut each other, with little or no side setbacks, providing a continuous building frontage that provides a sense of urban enclosure along the main streets. Each main street block is typically lined by several small storefronts or tenant spaces, providing a diversity of activities and visual experiences.*

Along Northwest 23<sup>rd</sup> Avenue, the facade is delineated into three visually distinct buildings that create a continuous urban enclosure with the ground floor dedicated almost completely to retail activities. The retail tenant spaces step with the changing grade and can accommodate six individual lease spaces. The proposal offers a diversity of activities and visual experiences are provided along NW 23<sup>rd</sup>:

- The retail tenant entrance at the Southern building is directly opposite the transit stop. A ten-foot-wide brick portion of the façade at the recess between

this building and the central East building provides screening to the anticipated back of house areas associated with a restaurant which is the targeted tenant for this space.

- The central East building has three bays of robust wood storefronts for small retail spaces.
- At the wider of the two recesses between the “block”, a contemporary glass and aluminum storefront creates a strong visual transition between the larger buildings.
- The Northern building has a tall aluminum and glass storefront with a large operable section that will provide visual interaction with the interior spaces.

*Appendix J, Urban Character Area: Streetcar Main Streets: Desired Characteristics and Traditions: The Streetcar Era structures that define the character of the main streets should be preserved or adaptively reused. New development should incorporate architectural features that characterize the district’s main streets, such as large storefront windows, awnings, and upper story residences, and should continue the historic pattern of a continuous frontage of buildings and active uses located close to sidewalks. Large retail developments should be integrated into the main streets’ fine-grain urban pattern and mix of uses through strategies such as including spaces suitable for small tenants along street frontages or by including upper-floor residences. Where appropriate, development should include outdoor space for dining and other activities that contribute to a vibrant urban environment. Disruptions to the continuity of the main street pedestrian environment by curb cuts, driveways, garage fronts and surface parking areas should be avoided.*

The proposed Northwest 23rd Avenue frontage will continue the existing pattern of ground floor retail uses with large storefront windows, generous canopies and setbacks that can accommodate a variety of retail activities and outdoor dining spaces along the sidewalk.

The proposed design will blend in with the early 20th century buildings, the turn of the century apartment buildings and the industrial buildings commonly found in and around the Northwest neighborhood with simple building massing, proportions, and scale. The masonry materials used on the street facing facades, with a smaller amount of metal panel, will be in keeping with the local character, and the appropriately scaled retail storefronts, each with a unique character, will further enhance the Main Street character of NW 23rd Avenue.

*This guideline is met.*

**P2. Historic and Conservation Districts.** Enhance the identity of historic and conservation districts by incorporating site and building design feature that reinforce the area’s historic significance. Near historic and conservation districts, use such features to reinforce and complement the historic areas.

**Findings:** While the site is not in the nearby historic Alphabet District, the intent of the design is to complement the neighborhood’s historic character with a compatible building design based on simple and straightforward massing that reflects the district’s partial block buildings and with the use of traditional masonry materials and details. The building reflects the evolution in the district from the more traditional, heavier design at the south and central part of the building and a lighter more contemporary design at the north end towards the newer buildings in the area.

*This guideline is met.*

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

**Findings:** The project consists of a new five story building with 74 apartment units on four floors above approximately 10,000 sf of ground level retail and one level of below grade parking for 44 cars. The site is located along the vibrant commercial corridor of Northwest 23<sup>rd</sup> at Northwest Marshall Street. The proposal seeks to reduce its impact on the area by incorporating quality building details, massing, proportions, and materials seen in the area:

- The building's design seeks to reinforce the partial block development pattern that is prevalent in the neighborhood by creating an assembly of visually distinct buildings. These buildings exhibit massing and material affinities with the early 20th century buildings of the district, with both traditional and contemporary approaches to their details.

Without replicating historic buildings, the design aims to convey the charm and character that makes the Northwest neighborhood so unique. Consistent with its predecessors, the building's composition emphasizes substance and materiality with particular emphasis to the pedestrian realm.

- The primary ground level focus is for active retail uses on 23<sup>rd</sup> Avenue. The residential entrance is placed on the quieter Northwest Marshall Street, and the parking garage access occurs on Northrup Street.
- The massing is split into three primary blocks, aka the Southern, Northern, and central East buildings. The Southern and Northern buildings are compositionally similar, but their outward appearances are expressed very differently. The central East building is separated from the others with a two-foot-deep vertical recess in the façade and a variation in the parapet heights.
- The parking garage entrance is located on Northrup Street, well away from NW 23<sup>rd</sup>, with mechanical louvers high above for garage exhaust and the emergency generator exhaust. A small, landscaped alcove provides a discrete location for gas meters and moves the tall retaining wall for the stormwater planter further from the sidewalk.
- The Northern and Southern buildings provide bookends to the west elevation, each topped with outdoor amenity spaces. The ten-foot setback at the west edge of the property is mostly dedicated to a stormwater planter whose trees will help to screen the building from the adjacent houses. The central portion of the building sets back an additional 15 feet to provide greater light, privacy, and separation to the adjacent residential area. Outdoor patios with raised planters at the second floor provide an additional layer of screening and softening to the residential zone edge. The fenestration has a similar patterning as the central East building façade, set within a stucco grid framework with projecting steel balconies. The top floor steps back approximately six inches and changes to the dark metal cladding to reduce the visual height of the building as seen from the residential properties to the west.
- The trash room has been located well away from the busy pedestrian area along NW 23<sup>rd</sup>. It will be accessed via a path at the southwest edge of the building, approximately 40 feet from the property line. The path is approximately 4 to 5 feet below the grade of the adjacent property's driveway and will be screened with a 6-foot-tall concrete retaining wall and 3-foot wood fence (measured from applicant's side of the property line) as well as a planter for tree screening. Alternative possible access points to the trash room, i.e.,

internal corridor with doors at the face of the building, would create a less desirable street frontage with more blank walls.

*This guideline is met.*

## **PUBLIC REALM**

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

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

**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 and E5:** This proposed development enhances the pedestrian experience in the following ways:

- The proposed development will replace the sidewalks in accordance with the City requirements. A three-foot dedication on Northwest 23rd will provide a 15-foot-wide sidewalk for enhanced pedestrian circulation. In addition to the 3 ft sidewalk dedication along Northwest 23rd, the retail storefronts are setback an additional three to four feet to provide ample room for retail patrons, outdoor dining opportunities, and passers-by to stop and visit.
- Generous canopies along Northwest 23rd provide weather protection for outdoor dining areas, and retail entrances. A variety of canopy designs are proposed to enhance the pedestrian visual experience and lend a unique character to each of the ground floor retail spaces. The residential lobby entrance is also protected with an overhead canopy and recessed door alcove. The smaller canopy of the Retail E space provides a distinct break between the two building masses and allows for visibility of anticipated future signage above. Most of the canopies are 7 or 8 feet deep to provide generous weather protection. The gaps between canopies on NW 23rd represent approximately 25% of the entire frontage and relate to the structural expression of the building apparent with the storefront bays and brick columns.
- Two existing trees on NW 23rd noted in the City Forester's Pre-application notes will remain. New street trees will be provided on NW Marshall and NW 23rd where conditions allow. However, due to underground vaults and power poles on NW Northrup, there is not an opportunity to add any trees on this frontage. In the applicant's response to the NWDA, Exhibit A25, the applicant noted they are inquiring with Urban Forestry about adding a street tree to NW Northrup and will do so if it is technically feasible.
- Vehicular access to the site is located on NW Northrup, located as far from the intense pedestrian area of NW 23rd as possible.

*These guidelines are met.*

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

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

**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 E3, E4, D2 and D5:** The proposal is programmed and designed to meet the intent of these guidelines as follows:

At the sidewalk level, the new building facade is primarily comprised of storefront windows that vary from 12 to 17 feet tall. Each of the building sections has a distinctive storefront treatment to add vitality to the pedestrian experience.

- The Southern building retail frontage has a combination of fixed aluminum storefronts on 23rd, and two large operable aluminum storefronts on Marshall Street that almost fully opens the south wall. A service door is also incorporated here to provide direct access to a large outdoor dining opportunity area. A generous canopy provides weather protection for this area. The ground floor transitions from retail to residential as one moves further away from the activity of NW 23rd Avenue. The wood and glass residential lobby storefront is tucked quietly into the westernmost bay along Marshall Street with a sheltering canopy overhead.
- The ground level of the central East building is differentiated from the other retail frontages with a simple yet bold wood storefront with large glass areas. Each of the three individual tenant spaces has a generous steel canopy to provide ample pedestrian weather protection. Wall sconce lights at the columns will accentuate the rhythm of the architecture.
- Finally, at the Northern building where the site slope creates the tallest interior space, a clean modern structural silicone glazed storefront will enclose the space. A large section will be operable to open the space to outdoor dining areas. A steel and glass canopy will provide a generous weather protection without creating dark shaded areas.

The proposed design contributes to active intersections with a larger anchor retail space occupying the Marshall and the Northrup corners. The emphasis on ground floor storefront variety and outdoor dining areas create a strong visual identity and provide for active and inviting intersections.

The residential lobby entrance is accessed directly from the sidewalk along Northwest Marshall Street and is accentuated with a wood storefront and a generous canopy. The streetcar/bus stop is a short distance away on NW 23rd.

Active ground floor uses occupy most of the street facing spaces to promote eyes on the street. Wall mounted lighting provides general accent lighting, with additional lighting below canopies for more ambient light. The required setback area will have a gate at the south end, six-foot-tall screening on the west, and due to the grade difference, a tall concrete retaining wall with landscaping/vines at the north end.

*These guidelines are 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 proposed development will cover most of the buildable site area. However, outdoor areas are provided in a number of other ways.

- A setback at the second-floor west side creates a number of large private patios for the apartments that face onto them.
- The steps at the fifth floor provides an opportunity for two large common use terraces. The south terrace is connected to the indoor amenity room and will provide for outdoor grilling and a firepit for small gatherings. The north terrace is a more contemplative space with bench seating and planters for a restful outdoor experience.
- Private balconies at the west and north facades provide the remainder of the required outdoor space.
- The second-floor terrace will have small trees and plantings in raised metal planters between each of the private patios (see roof terrace planting plan). The fifth-floor terraces will also have raised planters and other amenity features.

New street trees with tree well plantings will be installed on the street frontages at locations where utilities allow (Exhibit C2 (C1)).

- On NW 23<sup>rd</sup>, the Urban Forester has indicated that the two oak trees on NW 23<sup>rd</sup> would need to be pruned too much to facilitate development, and they have been line cleared repeatedly for overhead power lines. New trees are proposed to replace them.
- On NW Marshall, 3 new street trees are proposed.
- On NW Northrup, due to required utility line poles, streetlight signal control box, and the proposed underground PGE transformer vault and switch vault and associated conduit paths, and the proposed driveway, there is not space for a tree, nor are there any trees today. The applicant advises they are looking into the possibility of applying for a sidewalk permit (post construction) for a tree tub (i.e., raised planter) to provide a small tree in this location.

*These guidelines are met.*

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

**Findings:** Forty-four (44) off-street parking spaces are provided in an underground garage with this proposal. The parking garage entrance has been located at the north side and will be accessed from NW Northrup Street, well away from the busy pedestrian area on NW 23<sup>rd</sup>. The one required loading space will also be located in the underground garage (Exhibit C5 (C2.5)).

*This guideline is met.*

## **QUALITY AND PERMANENCE**

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

**Findings:** As mentioned above under findings for P1, the materials have been chosen to be compatible with the neighborhood, as well as be durable, beautiful, and affordable. The primary material of the exterior facade is brick, with three colors used to emphasize each separate building massing. Metal panel is used as a secondary cladding material, along with synthetic stucco on the non-street-facing elevation facing west. Aluminum or wood storefronts with clear glazing at the ground floor and commercial-grade vinyl windows at the upper levels will

provide for a variety of window expressions. Through-wall wall HVAC units are integrated into the façade design with louvers that match the window widths or combined into the metal panels at recessed window locations.

As described earlier, the massing is split into three primary blocks, aka the Southern, Northern, and central East buildings. Each of the three building blocks are detailed in a slightly different manner to provide interest and variety while maintaining a cohesive composition.

- The Southern Building is located at the high end of the site which has the effect of reducing the apparent height of the building. This dark blackish-brown brick clad building with contemporary detailing has a quiet character that steps down towards the west to complement the adjacent residential area. The apartment lobby entrance is located here, in the westernmost bay, sheltered by a wide canopy. Taking advantage of the 16 ft wide sidewalk on NW Marshall and the southern exposure, the corner retail space has two large operable storefronts that connect the interior space with potential outdoor sidewalk dining areas. A deep, wood soffit-ed canopy protects the openings and the outdoor areas and wraps around the corner to this retail space's main entrance on NW 23rd near the streetcar stop.

On the floors above, deep recesses provide shading to large windows. A six-inch high metal reveal at each floor level accentuates the horizontal dimension and reduces the visual weight of the building. At the fifth-floor level, this recess combines with the terrace parapet cap to create a stronger visual break in the plane of the facade. Additionally, the metal panel portion of the upper parapet steps back from the plane of the brick to further reduce the visual height of the building.

- The central East Building takes its cues from early industrial buildings of the nearby Upshur Street Warehouse District, with a regular bay spacing delineated by deep brick pilasters at the ground floor and multi-sectioned window groupings at the upper levels. The three ground floor retail bays feature stout wood framed storefronts setback three feet between the brick columns. Each bay has a central door with large windows with an industrial-style steel canopy to protect pedestrians from inclement weather. The standard sized brick cladding is a mid-toned tan color with random light and dark bricks set in a half running bond pattern.

The upper floors have an assembly of three windows with louvers below each, separated by a metal clad pilaster. A projecting brick cornice and a small setback occur at the fifth floor to offset the vertical height of the façade. The fifth-floor windows grow wider by reducing the pilaster width between them as one might see in a traditional brick structure. The parapet is elevated slightly higher than its neighbors to accentuate this mid-block facade.

- The Northern Building is the most contemporary in appearance and design of the three. The massing and scale of the building gradually reduces as it goes from the active main street façade to the quieter residential side at the west. The building's northeast corner massing is roughly in the form of a cube from the second to fifth floors. This square geometry is expressed on 23rd Avenue with a white brick outer frame inset with a grid of dark colored metal panels and windows to create a large-scale focal point to the streetcar corridor along on Northrup Street. Turning the corner, the north cube face begins to be infilled with more brick to create smaller divisions. Near mid-block, a vertical break in the north façade is punctuated with projecting balconies. The metal cladding of the recess wraps up and over the white brick to connect the east facing slot between the East building and the Northern Building. The building's height steps down at the northwest corner and the horizontal

openings further transition to individual punched openings on the west façade.

At the ground floor, the retail frontage along 23rd features a single wide bay with tall structural silicone glazed storefront that is recessed four feet from the face of the brick. A deep steel and glass canopy wraps around the corner to protect pedestrians and provide for an inviting covered outdoor dining area.

The rooftop mechanical units are well set back from the street frontages, reducing the chance of any visual impact on the pedestrian realm and nearby upper-story residential units.

After the staff report was published on April 26, 2021, the applicant provided new information and included the request for review of an alternative option to use synthetic stucco instead of metal panels in some locations on the elevations (See Exhibits C53-C55)

Stucco Alternative Option: This alternative option is to replace metal panels with synthetic stucco in some locations, including along the parapets and in minor recessed locations on the three street frontages. The synthetic stucco has a textured plaster finish which wraps corners, with ½ inch x ½ inch recessed joints. With this finish, the joints can be spaced further apart than the proposed metal panels, so there would be fewer joints. This material is keeping with the nature of this streetcar era neighborhood, and the alternative option to use of this material as a minor cladding material on the street frontages in these locations also meets the guidelines.

*This guideline is met.*

## **(2) MODIFICATION REQUESTS (33.825)**

### **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.

The following four (4) Modifications to development standards are requested:

1. Bike Parking– Stall Widths (PZC 33.266.220.C.3.b). Request to reduce the width of the vertically hung bike parking spaces from 24” to 18”.
2. Transit Street Main Entrance – Location (PZC 33.130.242.C.3.c). Request to locate the proposed main entrance to the residential portion of the building on NW Marshall, approximately 70 feet from NW 23rd Avenue (transit street).
3. Setbacks – L3 Landscape (33.130.215.B.2.b). Request to alter the required L3 landscape screening to the west due to substantial grade differences.
4. Vehicle Parking – Stall Length (33.130.266.130 Table 266-4). Request to have two stalls be slightly obstructed by structural columns at the front of the stall, effectively reducing the stall depth to 15'-0” instead of the required 16'-0”.

**Modification #1: Bicycle Parking Standards – Stall Widths (33.266.200.C.3.b).**

Request to reduce the width of bike parking spaces from 24” to 18”.

*Purpose:* Bicycle parking is required for most use categories to encourage the use of bicycles by providing safe and convenient places to park bicycles. These regulations ensure adequate short and long-term bicycle parking based on the demand generated by the different use categories and on the level of security necessary to encourage the use of bicycles for short and long stays. These regulations will help meet the City's goal that 10 percent of all trips be made by bicycle.

*Standard:* A space 2 feet by 6 feet must be provided for each required bicycle parking space, so that a bicycle six feet long can be securely held with its frame supported so that the bicycle cannot be pushed or fall in a manner that will damage the wheels or components.

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

**Findings for A and B:** The long-term residential bicycle spaces are proposed to be accommodated in vertical bike racks that are to be installed with a 1'-6" spacing instead of 2'-0", with an 8" vertical stagger. The proposed spaces provide for 4'-0" of distance from the wall and an adjacent 5'-0" access aisle.

Many bicycle rack manufacturers have a standard 1'-4" spacing that maximizes bike storage. This proposal uses a slightly less compact spacing of 1'-6" for the vertical long-term residential bike racks to provide the required amount of bike parking without sacrificing other spatial needs of the building. This spacing accommodates a variety of bikes and has been routinely approved on other projects. In addition, four (4) of horizontal staple racks are provided in each area where vertical racks are placed in the event someone has difficulty using the vertical rack.

Accommodating all of the long-term bicycle parking spaces at 24" on center within the floor plate would consume more floor area, which in turn would necessitate a reduction in active ground floor spaces. Relying upon a vertical bike rack at 18" on center within units is a more efficient use of space and is identical to bike parking systems recently approved in numerous Design Reviews throughout the Central City.

The proposed functional and space-efficient system eases floor plan demands and results in additional opportunities for active uses at the street, such as the retail tenant spaces. This alternative spacing of the vertical bike racks will contribute to the project better meeting Design Guidelines: *P1. Plan Area Character* and *D7. Blending into the Neighborhood*.

The purpose of the regulation is to provide usable bike racks, and this proposed spacing has been shown to be useable and efficient on past projects. PBOT noted support for the reduction in spacing of the bicycle footprint from 2'-0" to 1'-6, as long as a vertical stagger of at least 8" is provided between racks, which has been done here (Exhibit E2a).

*These criteria are met.*

**Modification #2: Transit Street Main Entrance - Location (PZC 33.130.242.C.3.c).**

Request to locate the proposed main entrance to the residential portion of the building on NW Marshall, approximately 70 feet from NW 23rd Avenue (transit street).

*Purpose:* Locating the main entrance to a use on a transit street provides convenient pedestrian access between the use and public sidewalks and transit facilities, and so promotes walking and the use of transit.

*Standard:* One main entrance to a multi-dwelling structure must face a courtyard that is adjacent to the transit street and be within 50 feet of the transit street.

- A. Better meets design guidelines.** *The resulting development will better meet numerous 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.*

**Findings for A and B:** The proposed main entrance to the residential portion of the building is located on NW Marshall approximately 70 feet from NW 23<sup>rd</sup> Avenue (transit street). Retail spaces and their entrances are proposed along the entire transit street frontage.

While it will be further that 50 feet from NW 23<sup>rd</sup>, the proposed location of the residential entrance on NW Marshall will still provide convenient pedestrian access to public sidewalks and transit facilities. Additionally, this entrance will be closer to the residential zone to the west seems, which is appropriate in this instance. And, while a loading space is provided within the building, inevitably some residential loading will occur thru the front door. If the entrance was located on the busier NW 23<sup>rd</sup> frontage, this would likely pose traffic concerns and streetcar conflicts.

The proposed location also allows for a greater concentration of retail uses on the transit street, which is key to creating a vibrant main street experience. If a residential entrance cut through the building to open onto NW 23<sup>rd</sup>, it would cut off one or more of the retail spaces from an internal service/exit corridor that allows retail employees to reach the trash room without hauling their trash/recycling/compost out their front door and down the sidewalk. While this often happens elsewhere, it is not ideal nor is it good for the pedestrian experience to contend with trash carts competing with walking space.

Furthermore, and to the purpose of the Centers Main Street Overlay Zone (33.415.350.A), the proposed location helps promote an environment that supports retail facilities and pedestrian activity. And, while the residential entrance is not located on NW 23<sup>rd</sup>, the design of the residential entrance is prominent, interesting, pedestrian accessible.

This alternative location of the residential entrance will contribute to the project better meeting Design Guidelines: *P1. Plan Area Character, D7. Blending into the Neighborhood, E1. The Pedestrian Network and D2. Main Entrances.*

*These criteria are met.*

**Modification #3: Setbacks – L3 Landscape (33.130.215.B.2.b).** Request to alter the required L3 landscape screening to the west due to substantial grade differences.

*Purpose:* The setback requirements for areas that abut residential zones promote commercial/ mixed use developments that will maintain light, air, and the potential for privacy for adjacent residential zones.

*Standard:* The required setback from a lot line that abuts an R1 zone is 10 feet and must be landscaped to the L3 standard which requires a 6-foot-tall screen (shrubs or masonry wall) and groundcover planting. Paved areas may not extend closer than 5ft to the lot line.

- A. Better meets design guidelines.** *The resulting development will better meet numerous 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.*

**Findings for A and B:** The proposed 10-foot setback from the west property line will be used primarily for the stormwater management planter. The required screen wall

is proposed as a concrete stem wall that is approximately 18-36 inches tall with a wood fence on top up to the 6-foot height requirement with some minor exceptions at the north and south ends of the property. Additionally, a small portion (274 sf) of the south end of the setback is proposed to be paved for service access.

The proposed screen wall configuration with a wood fence atop a concrete stem wall will provide a more attractive residential appearance to the adjacent R zone lots than would otherwise be afforded by a 6ft tall masonry/concrete wall. A shrub screen would reduce the stormwater planter size below its required capacity.

The screen wall would stop short of the north and south property lines:

- 3'-8" from the north property line where the new wall connects to the existing neighbor's garage, and,
- about 4 feet from the south property line where the screen wall steps with the adjacent grades to provide visibility to/from the neighbor's driveway for pedestrian safety.

The proposed paving at the south end of the setback allows for trash/recycling services to access the building from NW Marshall Street. The paving would be approximately 4 feet from the property line in order to provide maneuvering room for dumpsters. A raised planter will be located just inside the screen wall to provide a continuation of planting/trees that extends thru the stormwater planter.

This alternative treatment of the landscape screening will contribute to the project better meeting Design Guidelines: *P1. Plan Area Character, D7. Blending into the Neighborhood, D1. Outdoor Areas, and D3. Landscape Features.*

*These criteria are met.*

**Modification #4: Vehicle Parking – Stall Length (33.130.266.130 Table 266-4).**

Request to have two stalls be slightly obstructed by structural columns at the front of the stall, effectively reducing the stall depth to 15'-0" instead of the required 16'-0".

*Purpose:* The development standards promote vehicle areas that are safe and attractive for motorists and pedestrians.

*Standard:* The minimum stall size for 90-degree parking with a 20 ft drive aisle is 8'-6"x 16'-0".

- A. Better meets design guidelines.** *The resulting development will better meet numerous 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.*

**Findings for A and B:** Two stalls are slightly obstructed by structural columns at the front of the stall, effectively reducing the stall depth to 15'-0" instead of the required 16'-0".

The proposed stalls located in the below-grade parking area, will be for residential use, and typically will be assigned to a specific tenant. This increases the likelihood that the stalls could be used by someone who has a smaller car, ensuring the vehicle areas are safe for motorists and pedestrians.

This slightly smaller depth of vehicle stalls will free up building area for more active uses and contribute to the project better meeting Design Guidelines: *P1. Plan Area Character and D7. Blending into the Neighborhood and D4. Parking Areas and Garages.*

*These criteria are 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 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.

## **CITY COUNCIL DECISION**

The Council's role is to review the applicant's proposal to determine whether it meets the relevant design guidelines. As described in the findings above, Council finds that the proposed mixed-use development meets the relevant approval criteria.

It is the decision of the City Council to uphold the Design Commission's decision of approval for the proposed five-story mixed-use building, with 74 apartment units on four floors above approximately 10,000 sf of ground level retail, located in the Northwest Plan District. The below grade parking for 44 cars, one B sized loading space, and 91 bike spaces will be accessed off NW Northrup Street. Primary cladding materials include 3 colors of brick, metal panels and synthetic stucco with ground level wood and aluminum storefront glazing, commercial vinyl windows above, ground metal canopies, and board formed and painted concrete at the base.

Approval is for the original proposal, Exhibits C1-52, and the alternate proposal, as depicted in Exhibits C53-C55.

City Council approves the following four (4) Modifications:

1. Bike Parking – Stall Widths (PZC 33.266.220.C.3.b). Request to reduce the width of the vertically hung bike parking spaces from 24" to 18".
2. Transit Street Main Entrance - Location (PZC 33.130.242.C.3.c). Request to locate the proposed main entrance to the residential portion of the building on NW Marshall, approximately 70 feet from NW 23rd Avenue (transit street).
3. Setbacks – L3 Landscape (33.130.215.B.2.b). Request to alter the required L3 landscape screening to the west due to substantial grade differences.
4. Vehicle Parking – Stall Size (33.130.266.130 Table 266-4). Request to have two stalls be slightly obstructed by structural columns at the front of the stall, effectively reducing the stall depth to 15'-0" instead of the required 16'-0".

Approvals per Exhibits C.1-C.55, signed, stamped, and dated May 16, 2021, and, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 20-123610 DZM". All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. No field changes allowed.

## **APPEAL INFORMATION**

### **Appeals to the Land Use Board of Appeals (LUBA)**

This is the City's final decision on this matter. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date of the decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period or this land use review. You may call LUBA at 1 (503) 373-1265 for further information on filing an appeal.

### **EXHIBITS**

- A. Applicant's Statement
  - 1. Original Submittal – Narrative
  - 2. Original Submittal – Overview
  - 3. Original Submittal – Drawings
  - 4. Original Submittal – Appendix
  - 5. Original Submittal – Drainage Report
  - 6. Original Submittal – Geotech
  - 7. Original Submittal – Neighbor Contact
  - 8. 120-day waiver, 3/17/20
  - 9. Revised 8.20.20 – Narrative
  - 10. Revised 8.20.20 – Overview
  - 11. Revised 8.20.20 – Drawings
  - 12. Revised 8.20.20 – Appendix
  - 13. Revised 8.20.20 – Drainage Report
  - 14. Revised 9.30.20 – Narrative and zoning summary
  - 15. Revised 9.30.20 – Overview
  - 16. Revised 9.30.20 - Drawings
  - 17. Revised 9.30.20 – Appendix
  - 18. Revised 9.30.20 – Drainage Report
  - 19. Request to postpone hearing, 10/1/20
  - 20. Request to reschedule hearing, 3/9/21
  - 21. Revised sheets C10 and APP3, 3/22/21
  - 22. Revised 4.15.21 - Drawings
  - 23. Revised 4.15.21 – Overview
  - 24. Revised 4.15.21 – Zoning Diagrams
  - 25. Response to NWDA's Comments
- B. Zoning Map (attached)
- C. Plan & Drawings
  - 1. Cover page
  - 2. Site Plan (attached)
  - 3. Existing Conditions Plan
  - 4. Utility Plan
  - 5. Basement Floor Plan
  - 6. Ground Floor Plan
  - 7. Second Floor Plan
  - 8. Third -Fourth Floor Plan
  - 9. Fifth Floor Plan
  - 10. Roof Plan
  - 11. Setback Dimension Plan; 2nd Floor Dimension Plan
  - 12. Landscape Materials Plan
  - 13. Landscape Planting Plan
  - 14. Fifth Floor Terraces; Balconies Dimension Plan
  - 15. Exterior Lighting Plan
  - 16. East-West Building Section
  - 17. East-West Building Section
  - 18. North-South Building Section
  - 19. North-South Building Section

20. Elevation – South (color)
  21. Elevation – South (bw)
  22. Elevation – East (color)
  23. Elevation – East (bw)
  24. Elevation – North (color)
  25. Elevation – North (bw)
  26. Elevation – West (color)
  27. Elevation – West (bw)
  28. Elevation – West at Setback (bw)
  29. Elevation – West at Stepdown Plane
  30. Exterior Details - South
  31. Exterior Details - South
  32. Exterior Details - South
  33. Exterior Details – East
  34. Exterior Details – East
  35. Exterior Details - East
  36. Exterior Details - East
  37. Exterior Details - North
  38. Exterior Details - North
  39. Exterior Details – West
  40. Exterior Details - West
  41. Exterior Details – Canopy Plans
  42. Exterior Details – Canopy Plans
  43. Building Materials
  44. Cutsheets – Roof Mechanical
  45. Cutsheets – Roof Mechanical
  46. Cutsheets - Doors
  47. Cutsheets - Glazing
  48. Cutsheets - Vents
  49. Cutsheets – Garage Doors
  50. Cutsheets – Guardrail
  51. Bike Parking Plan
  52. Bike Parking Enlarged Plans
  53. Cutsheets for Metal Panels and Synthetic Stucco Finish
  54. Revised elevations with metal panel joints
  55. Revised elevations with Synthetic stucco alternative
- D. Notification information:
1. Request for response
  2. Posting letter sent to applicant
  3. Notice to be posted
  4. Applicant’s statement certifying posting
  5. Mailed notice
  6. Mailing list
  7. Revised Posting letter sent to applicant
  8. Revised Notice to be posted
  9. Applicant’s statement certifying posting
  10. Revised Mailed notice
  11. Revised Mailing list
- E. Agency Responses:
1. Bureau of Environmental Services
  - 2a. Bureau of Transportation Engineering and Development Review, Bike Mod
  - 2b. Bureau of Transportation Engineering and Development Review, General
  3. Water Bureau
  4. Fire Bureau
  5. Site Development Section of Bureau of Development Services
  6. Bureau of Parks, Forestry Division
  7. Life Safety Section of Bureau of Development Services

F. Letters

1. Steve Pinger, NWDA Planning Committee, 9/24/2020, while the NWDA generally supports the design concept and the modifications, they felt that some parts of the proposal may not meet guidelines P1, D3, D7, D8, E5.
2. Carla Charlton, 9/23/2020, noted interest in participating in the hearing and the links were not correct.
3. Tom Gilles, 10/7/20, note concerns with any loss of historic fabric and increased traffic.
4. Paul Phillips, 10/14/2020, noted concern that the proposal contained insufficient parking.
5. James Cutler, 4/9/2021, noted concern with adding density.

G. Other

1. Original LUR Application
2. Incomplete letter, 5/4/20
3. 180-day reminder notice, 8/14/20

H. Design Commission Exhibits

*(Evidence received before the Design Commission hearing on May 6, 2021)*

1. Staff report April 26, 2021
2. Revised Staff Report, April 29, 2021
3. Staff memo to the Commission, April 29, 2021
4. Guideline Matrix, April 29, 2021
5. Dennis Harper letter, April 30, 2021, wrote with concerns about lack of upper level step back.

*(Evidence received at the Design Commission hearing on May 6, 2021)*

6. NWDA, May 6, 2021, wrote with concerns about lack of upper level step back.
7. Staff presentation, May 6, 2021
8. Testifiers Sheet, May 6, 2010

I. Appeal, City Council Exhibits

*(Evidence received before the City Council appeal hearing on July 14, 2021)*

1. Final Findings, sent May 21, 2021
2. Mailing list of Final Findings, sent May 22, 2021
3. Appeal Statement and Appeal Form, June 4, 2021
4. Waiver form
5. Approved Waiver letter
6. Mailed Notice of Appeal, sent June 10, 2021
7. Notice of Appeal Mailing list, sent June 10, 2021
8. CE John letter representing applicant, July 8, 2021

*(Evidence received at the City Council appeal hearing on July 14, 2021)*

9. Staff Presentation to City Council, July 14, 2021
10. Appellant Presentation to City Council, July 14, 2021
11. Applicant Presentation to City Council, July 14, 2021