



City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 | 503-823-7300 | www.portlandoregon.gov/bds



Type II and IIX Decision Appeal Form

LU Number: LU 18-137-884 D2M

FOR INTAKE, STAFF USE ONLY

Date/Time Received 11/6/18 @ 10:10am

Action Attached

Received By Elizabeth Duncan

Fee Amount \$250.00

Appeal Deadline Date 11/6/18 @ 4:30pm

Fee Waived

Entered in Appeal Log

Bill # 4413756

Notice to Dev. Review

Neighborhood Overlook Neighborhood Assoc.

APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS 1935 N. KILLINGSWORTH ST. DEADLINE OF APPEAL 11/6/18

Name OVERLOOK NEIGHBORHOOD ASSOCIATION

Address 2209 N. SCHOFIELD ST City PORTLAND State/Zip Code OR 97217

Day Phone (503) 545-2519 Email michaix59@gmail.com Fax _____

Interest in proposal (applicant, neighbor, etc.) NEIGHBORHOOD ASSOCIATION

Identify the specific approval criteria at the source of the appeal:

Zoning Code Section 33. 420 . 55

Zoning Code Section 33. _____ . _____

Zoning Code Section 33. _____ . _____

Zoning Code Section 33. _____ . _____

Describe how the proposal does or does not meet the specific approval criteria identified above or how the City erred procedurally:

SEE ATTACHED STATEMENT

Appellant's Signature Michael Shea for Overlook Neighborhood Association

FILE THE APPEAL - Submit the following:

- This completed appeal form
- A copy of the Type II or IIX Decision being appealed
- An appeal fee as follows:
 - \$250, payable to City of Portland
 - No appeal fee is charged when appeal is filed by ONI recognized organizations for properties within organization's boundaries
 - Fee waiver request letter for low income individual is signed and attached
 - Fee waiver request letter for Unincorporated Multnomah County recognized organizations is signed and attached

The City must receive the appeal by 4:30 pm on the deadline listed in the Decision in order for the appeal to be valid. To file the appeal, submit the completed appeal application and fee (or fee waiver request as applicable) at the Reception Desk on the 5th Floor of 1900 SW 4th Ave, Portland, Oregon, between 8:00 am and 4:30 pm Monday through Friday.

A public hearing on the appeal will be held. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

Compliance with Community Design Guidelines is required by the 'd' design overlay zone. The most relevant guidelines to the Neighborhood Association are:

Guideline D7:

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

There are few design details, proportions, massing or materials in this project that echo any of the existing commercial buildings along Killingsworth. Ribbed metal siding is used that only 1 other building between Interstate and Greeley uses. There is a random window arrangement that no buildings along the street exhibit. There is no clear top to the building. Other buildings on the street have definable tops with either cornices of some sort or gabled roofs, and even the auto repair garage 2 blocks away has a definable cornice on its ribbed metal siding. The building insufficiently reduces the impact of the massing on the buildings to the north.

The Overlook Neighborhood Association called this to the attention of the staff reviewer but the applicant was never required to demonstrate specifically how the building met the community design guidelines and the reviewer's response to the neighborhood association was essentially 'this does not apply'. This was not an appropriate response. We ask that the applicant state specifically how they meet the guidelines.

Guideline D8:

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

The first page of the guideline states:

New development should have a level of interest beyond pure function. Character and interest should be enhanced at all scales. Changes in wall planes, pitched roofs, and eaves create variety in building form. Bays, dormers, and porches can be added as special features. Details such as siding and trim create shadow lines that further enhance interest. Building materials should not only be long lasting, but should have interesting textures and patterns. All parts of a building should be thoughtfully designed to relate together as a cohesive composition.

Reading this, and looking at the elevations, it almost seems unnecessary to make a comment. This design ignores the concepts expressed in the guideline. The composition consists of a large flat facade of metal siding on Killingsworth and another on Denver, a residential street of single family homes.

Again, this guideline applies and cannot be dismissed as not applicable. If it is not important, why does the planning department call this a d overlay zone? And why have community design guidelines?

Regarding these specific guidelines, the planning department has erred, if nothing else by not even requiring the applicant to make a case for compliance with the guidelines. We think that case cannot be made with the existing design and the applicant was allowed an unreviewed and unjustifiable variance from community design guidelines. The following page, copied from the Community Design Guidelines states that "During the design review process, the review body must find that the proposal meets each design guideline." This has not occurred.

How Design Guidelines are Used

Design guidelines are mandatory approval criteria that must be met as part of design review and historic design review. They also are a source of information for both developers and the community as to what issues will be addressed during the design review process.

The design review process is flexible to encourage designs that are innovative, and are appropriate for a specific location. For this reason guidelines are qualitative statements. Unlike objective design standards, there are many acceptable ways to meet each guideline. Each guideline is followed by a list of examples of some ways to meet the guideline. These examples are provided to stimulate the search for a design that meets both the guidelines and the developer's needs; they function as explanations of the guideline, and are not intended to be used as the recommended solution.

While the design guidelines are qualitative, they are still mandatory approval criteria, and must be met. The guidelines provide flexibility to designers, but they are requirements. Applicants are responsible for explaining, in their application, how their design meets each of the guidelines.

During the design review process, the review body must find that the proposal meets each design guideline. Proposals that meet all the guidelines will be approved; proposals that do not meet all of the guidelines will not be approved. If the review body approves the proposed design, they may add conditions to their approval; these conditions require modifications to ensure the proposal's compliance with the guidelines. Generally, the review body would rather that applicants revise their designs to address deficiencies rather than have the City impose a specific solution through conditions.

Waiver of Design Guidelines
In some cases, a design guideline may be waived. If the design guidelines document includes design goals for the area, a guideline may be waived as part of the design review process where the proposed design meets the design goals for the area better than would a project that complied with the guideline. If a waiver is requested, the application for design review must explain how the design goals are met. More information on waivers is available from the Development Services Center.

Applicability of Community Design Guidelines
The chart on page 12 shows which Community Design Guidelines apply to different types of projects. An applicant need only address those guidelines that are identified as applicable on this chart.



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

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

Date: October 23, 2018
To: Interested Person
From: Hannah Bryant, Land Use Services
 503-823-5353 / Hannah.Bryant@portlandoregon.gov

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.

*If this case is appealed, the hearing for the appeal will be held **Thursday, November 15, 2018 @ 1:30 pm** with the Portland Design Commission. The hearing will take place in Room 2500A + B (2nd floor) at 1900 SW 4th Avenue, Portland, OR 97201. If a timely and valid appeal is filed by the end of the appeal period at 4:30pm on November 6, 2018, no supplemental mailed hearing notice will be sent.*

If appealed, the appeal will be listed on the online Design Commission hearing agenda no later than 5pm on Wednesday November 7, 2018. Online hearing schedules are available on the BDS web page (www.portlandonline.com/bds → Zoning & Land Use → Notices, Hearings, Decisions... → Public Hearings → Design Commission Agenda). Copies of the appeal filing will be available by contacting the case planner, Hannah Bryant (contact info. at top of page) on or after Thursday November 8, 2018.

This tentative appeal hearing date will be cancelled if Portland Public Schools are closed due to inclement weather or other similar emergency. Check local television and radio reports for school closures. The hearing will be rescheduled for the earliest possible date. A renotification notice will not be sent. Please call the Case Planner, Hannah Bryant (contact info. at top of page) for information regarding cancellations and/or rescheduling

CASE FILE NUMBER: LU 18-137884 DZM – FOUR-STORY MIXED-USE BUILDING IN OVERLOOK

GENERAL INFORMATION

Applicant: Alex Porter | Works Progress Architecture
 811 SE Stark Street, Suite 210 | Portland, OR 97214

Owner: Steve Fowlkes
 2300 NE Brazee Street | Portland, OR 97212

Site Address: **1935 N Killingsworth Street**

Legal Description: BLOCK 3 LOT 1&2, PARK ADD TO ALBINA

1900 SW 4th Avenue, Suite # 5000, Portland, OR 97201

will contribute a vibrant, visually interesting and accessible place for the neighborhood. The building's simple expression of residential over retail relates to the street's historic streetcar era development through a contemporary architectural expression. The proposal meets the applicable design guidelines and modification criteria and therefore warrants approval.

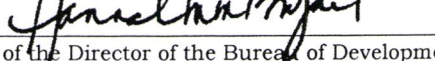
ADMINISTRATIVE DECISION

Approval of a new four-story mixed-use building including 36 residential units, ground level commercial (approximately 4719 square feet), 42 long-term bicycle parking spaces and 4 short-term bicycle parking spaces, per the approved site plans, Exhibits C-1 through C-28, signed and dated October 18, 2018, subject to the following conditions.

Approval for the following Modification requests:

1. Reduce the spacing of staggered, wall-mounted bicycle racks in the bicycle storage room from 24" to 18" (PZC 33.266.220.C.3.b);
 2. Reduce the ground floor height from 12' to 11'-3" from the finished floor to bottom of structure above (PZC 33.561.280.C.1);
 3. Allow the canopy and signage at the ground level of the North Killingsworth frontage to project 5' into the required special setback, which is otherwise limited to 3' (PZC 33.288.020.B); and
 4. Allow the guardrail at the roof hatch to project 3' above the 45' height limit (PZC 33.130.210.B).
- A. As part of the building permit application submittal, the following development-related conditions (B through E) 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 18-137884 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. All metal flashing will be a minimum of 22 gauge.
- D. All metal panels will utilize concealed fastener systems on all facades, and of a minimum of 22 gauge for panel widths less than 12", and a minimum of 20 gauge for panel widths of 12" or more.
- E. No field changes allowed.

Staff Planner: Hannah Bryant

Decision rendered by:  **on October 18, 2018**
By authority of the Director of the Bureau of Development Services

Decision mailed: October 23, 2018

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 March 23, 2018 and was determined to be complete on April 30, 2018.

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 March 23, 2018.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant waived the 120-day review period, as stated with Exhibit A.2. Unless further extended by the applicant, **the 120 days will expire on: April 30, 2019.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

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

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

Appealing this decision. This decision may be appealed to the Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on Tuesday, November 6, 2018** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

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

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

Recording the final decision.

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

- *Unless appealed*, the final decision will be recorded on or after **November 7, 2018** 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

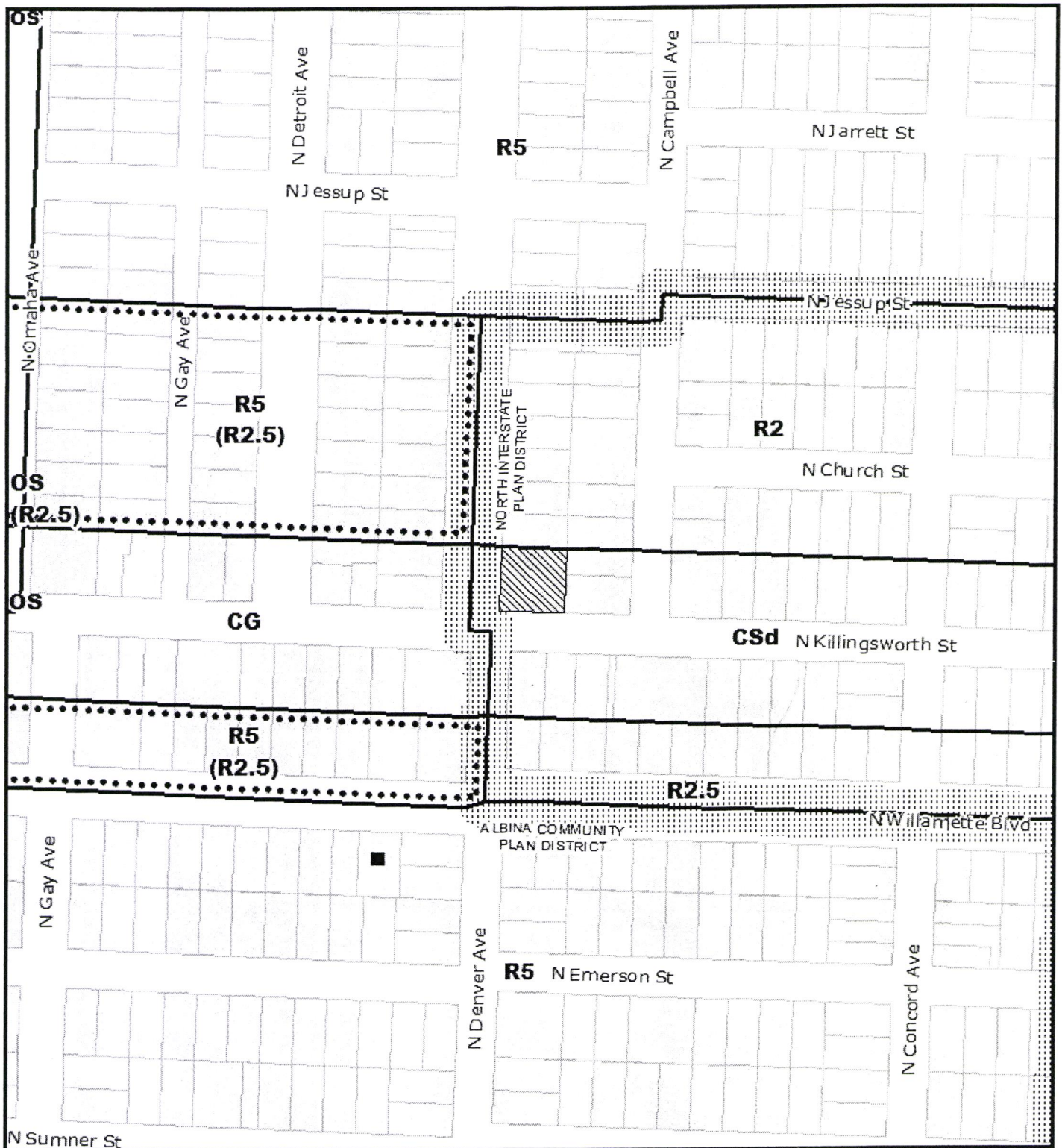
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Submittals
 1. Original Submittal, dated March 19, 2018
 2. Extensions, dated May 30, 2018, June 8, 2018 and June 12, 2018
 3. Response to Incomplete letter, dated May 4, 2017
 4. Stormwater Report
 5. Geotechnical Report
 6. Phase 1 Environmental Site Assessment
 7. Revised Submittal, dated June 24, 2018
 8. Presentation to Neighborhood Association + Neighborhood Contact Info
 9. Email from Applicant, dated May 21, 2018
 10. Revised Narrative and Appendices, dated September 18, 2018
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Stormwater Plan
 3. Utility Plan
 4. Landscape and Tree Plan
 5. North Residential Setback Diagram
 6. Plant Legend
 7. Level 1 and Level 2 Floor Plans
 8. Level 3 and Level 4 Floor Plans
 9. Ground Floor Plan: Option 1
 10. Ground Floor Plan: Option 2
 11. Ground Floor RCP: Option 1
 12. Ground Floor RCP: Option 2
 13. Typical Unit Plan
 14. Roof Plan
 15. Roof Details
 16. South Elevation
 17. West Elevation: Option 1
 18. West Elevation: Option 2
 19. North and East Elevation

20. Building Sections
 21. Parapet Detail
 22. Cladding Details
 23. Window Details
 24. Window Details
 25. Ground Floor Details
 26. Ground Floor Details
 27. Canopy and Storefront Details
 28. Curb at Metal Panel Wall Detail
- D. Notification information:
1. Mailing list
 2. Mailed notice, dated May 4, 2018
 3. Second Mailing list
 4. Mailed notice, dated September 6, 2018
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Water Bureau
 3. Fire Bureau
 4. Site Development Review Section of BDS
 5. Portland Bureau of Transportation
 6. Life Safety
- F. Correspondence:
1. Beltrand, Cindy – April 11, 2018 – States the building is too tall for the context.
 2. Bettinger, Cory – May 23, 2018 – Feels the building is too tall for the context and would like more 2-3 bedroom units.
 3. Carlson, Amy – May 25, 2018 – Feels the proposal is too tall for the context; would like on-site parking; expresses support for more affordable units; wood at the ground level; eaves and cornices; aligned windows; more trees on site and pervious landscape surfaces.
 4. Chesnek, Charity – April 26, 2018 – Concerns about the height, materials and aesthetic.
 5. Chesnek, Steve – April 20, 2018 – Concerns about the height and the lack of on-site parking.
 6. Gehring, Wendy – May 25, 2018 – Concerns about the architecture, height, color and materials.
 7. Goranson, Nadine – April 16, 2018 – Concerns about the height of the building.
 8. Haas, Evan – May 8, 2018 – Concerns about the height of the building for its surrounding context, and the lack of on-site parking.
 9. Hulse, Jose – April 10, 2018 – concerns about the height; the lack of setback; the assurance of affordable housing and the lack of on-site parking.
 10. Jones, McKenna – April 15, 2018 – Concerns about the height; the industrial feel of the metal cladding; the grey color. She supports the gable roofline that was shown at the Neighborhood Association, the inclusion of ground floor commercial spaces, and the nine on-site parking spaces shown at the neighborhood association meeting.
 11. Jones, McKenna – April 16, 2018 – States that the box-rib metal buildings in the neighborhood are light industrial buildings.
 12. Medalia, Taizz – April 21, 2018 – Concerns about the height, and the metal siding. Would prefer wood siding. (Included a comment of a wood, three-story multi-family housing project.)
 13. Meriam, Andrew – May 23, 2018 – Concerns about the lack of on-site parking, the height and the dark gray metal siding.
 14. Merriam, Andrew – June 6, 2018 – Would like a shorter building, with a flat roof, and on-site parking, and would support reducing the required Special Setback.
 15. Ormsby, Jonathan – April 10, 2018 – Supports the gable roof and the large windows. Does not support the box-rib metal siding and has concerns about it not relating to the neighborhood context and being highly reflective. Feels brick or wood siding would be more appropriate.
 16. Ormsby, Jonathan – May 21, 2018 – Does not approve the changes made following the initial meeting with the neighborhood association. Does not support the lack of on-site parking, the flat roof, the metal cladding.

17. Overlook Neighborhood Association – April 3, 2018 – Supports the proposal, and feels its scale, design aesthetic and character are appropriate for the neighborhood. On-site parking, a ground-level courtyard and mixed-use at the street level are particularly appreciated.
 18. Overlook Neighborhood Association – May 15, 2018 – Due to the elimination of on-site parking, the Neighborhood Association no longer supports the project. Concerns include the exterior materials and roof form.
 19. Overlook Neighborhood Association – May 17, 2018 – Notes that Guidelines D7 and D8 are not yet met with this proposal.
 20. Payne, Michael – April 17, 2018 – Feels the height and style of the proposal are not compatible with the surrounding context.
 21. Speers, Alex – April 8, 2018 – Has concerns about the height, and its impact on his adjacent home. Would like a building that responds to the surrounding context.
 22. St. John, Anna – May 23, 2018 – The proposed height is too tall for the surrounding 1- and 2-story structures; material and roofline are not compatible with the surroundings; concerns about no on-site parking; questions about the affordable housing provisions and how public infrastructure will support the proposal.
 23. St. John, Anna – May 24, 2018 – Notes that the site was a gas station and that it may require soil remediation.
 24. Sullivan, Robert and Sharon – May 25, 2018 – Feels an 11' setback from the adjacent residential zone to the north is insufficient; has concerns about impacts from residents parking on surrounding streets.
 25. Thompson, Adam – April 9, 2018 – Concerns about the height, box rib metal siding, lack of eaves, an insufficient setback bordering the adjacent residential zone to the north, and the impact of a large building without on-site parking on the existing neighborhood conditions. Would like a 2-3 story building, with wood or brick siding, eaves and a deeper landscaped setback.
 26. Thompson, Adam - April 10, 2018 – Has concerns about the height, materials and design, and does not feel they meet the purpose of Design Review.
 27. Thompson, Adam – May 18, 2018 – Organizing a meeting with neighbors, the architect and developer, to discuss reducing the scale of the building, changing exterior cladding material, reinstating gable roof forms with eaves, adding wood siding to the ground floor, adding on-site parking, increasing landscape spaces and increasing the quantity of affordable units.
 28. Thompson, Adam – May 24, 2018 – Concerns that the proposal is incompatible with the surroundings, and cites Community Design Guidelines D7, P1, D8, E4, D2 and D3. Specific concerns include the massing; height; roof form; type and application of exterior cladding material; likelihood of perforated metal panels to trap dirt and debris; the treatment of the N. Denver/N. Killingsworth corner; the main entrances; small ground floor canopies; lack of protection for nearby trees; insufficient landscaped setback at north property line; negative social impacts due to limiting sunlight and increased use of on-street parking spaces.
 29. Thompson, Adam – September 18, 2018 – sent in a letter dated May 24, 2018, originally mailed in response to the first Public Notice period.
 30. Ward, Rayner – May 8, 2018 – Suggests a maximum height of two stories.
 31. Whitney, Holly – April 10, 2018 – Does not support a three or four-story building; the lack of on-site parking proposed; the gable rooflines or the metal siding.
- G. Other:
1. Original LU Application
 2. Incomplete Letter, dated April 6, 2018
 3. Staff Memo to Applicant, dated June 5, 2018
 4. Early Assistance Summary Memo, dated February 15, 2018
 5. Ordinance 151740, dated June 15, 1981
 6. Staff response to public comments

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



ZONING

THIS SITE LIES WITHIN THE:
NORTH INTERSTATE PLAN DISTRICT



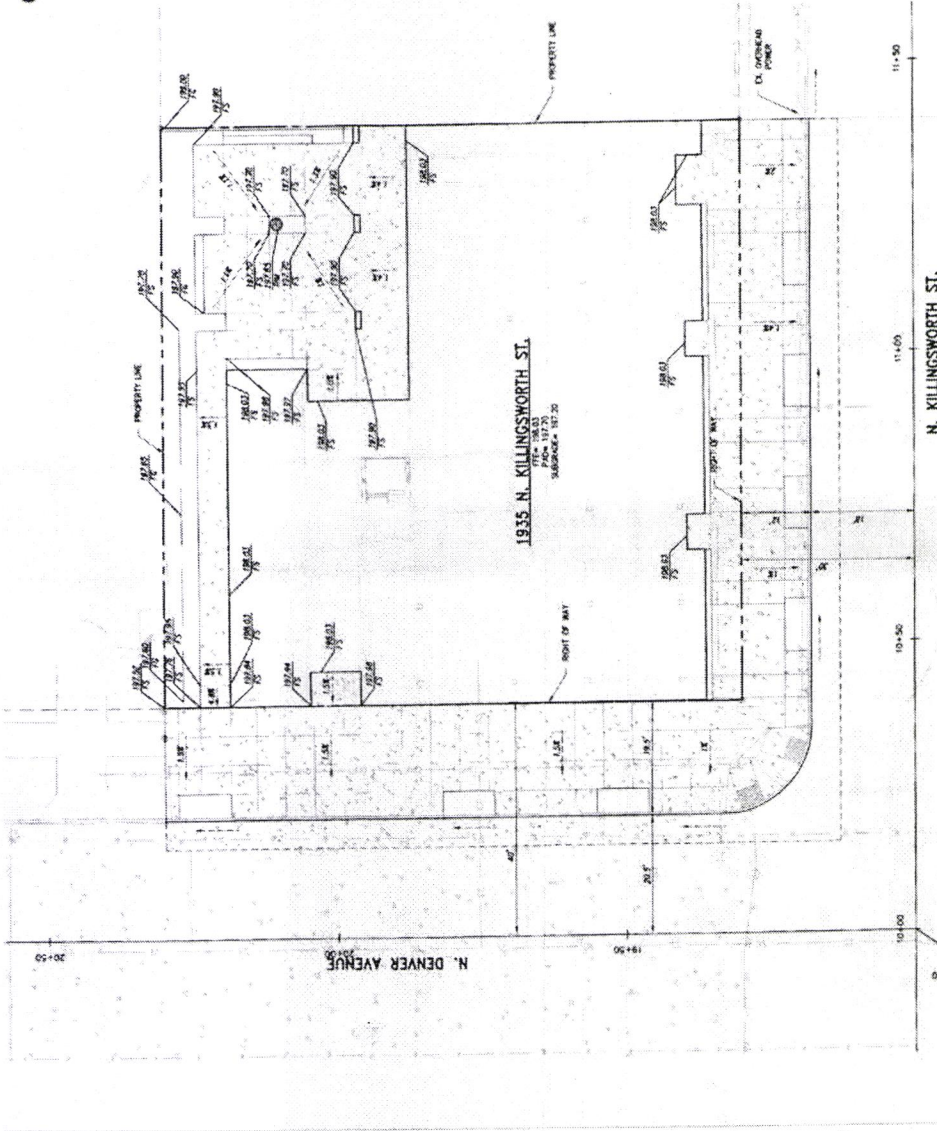
Site



Historic Landmark

File No.	LU 18-137884 DZM
1/4 Section	2428
Scale	1 inch = 200 feet
State ID	1N1E16DD 23400
Exhibit	B May 02, 2018

C2 SITE DRAWINGS
C2.2 GRADING PLAN



City of Portland - Bureau of Development Services
 Approved: *[Signature]* Date: 10-18-18
 This approval applies only to the review requested and is subject to all conditions of approval. Additional zoning requirements may apply.

SCALE: 1/16"=1'-0"
 N

cl