



## Type II Land Use Appeal

# MEMORANDUM

**Date:** June 13, 2019  
**To:** Portland Design Commission  
**From:** Benjamin Nielsen, Design Review  
(503) 823-7812 / [benjamin.nielsen@portlandoregon.gov](mailto:benjamin.nielsen@portlandoregon.gov)  
**Re:** LU 18-277183 DZM AD – New Residential Mixed-Use at 5020 N Interstate  
Appeal of a Type II Design Review Approval with Conditions – June 20, 2019

Included with this memo is a copy of the proposal for a new mixed-use development at 5020 N Interstate Ave in preparation for the proposal's Type II Design Review appeal, to be held on June 20, 2019. Please contact me with any questions or concerns.

### I. OVERVIEW

Appeal of a Type II Staff Decision of Approval with Conditions for a proposed 6-story, 72,732 SF residential mixed-use building at the northeast corner of N Interstate Ave and N Alberta St in the North Interstate Plan District. Four Modifications were requested to façade articulation, screening, parking area perimeter landscaping, and long-term bicycle parking standards. One Adjustment was requested to the Required Ground Floor Active Use standard in the "m" Centers Main Street overlay.

### II. DEVELOPMENT TEAM

**Architect/Appellant** Martin Segura III, Carleton Hart Architecture, PC  
**Owner:** Diane Linn, Proud Ground  
**Project Valuation** \$ 16,942,712

### III. APPROVAL CRITERIA: Community Design Guidelines

### IV. PROCEDURAL HISTORY

- Design Review application submitted on December 12, 2018 and determined to be complete on February 12, 2019.
- The applicant requested to extend the review period on March 18, 2019 and again on April 4, 2019.
- Staff decision of approval with conditions issued on May 3, 2019.

- Christian Trejbal, Chair of the Overlook Neighborhood Association, appealed the staff decision on May 13, 2019. Martin Segura III, Carleton Hart Architecture, PC appealed the staff decision on May 17, 2019.

## V. STAFF ANALYSIS

There are two appellants in this case:

- 1) Christian Trejbal, Chair of the Overlook Neighborhood Association (OKNA), is appealing approval of the Adjustment to the Required Ground Floor Active Use standard in the “m” overlay zone. His appeal states: “The Adjustment to the ground floor active use required by Section 33.415.200 does not meet the criteria for such Adjustment. Based on the applicant proposal and conditions of approval, the project should include at least 25% ground floor as active use.”
- 2) The applicant, Martin Segura of Carleton Hart Architecture appealed the decision stating that, “the proposal meets the zoning standards’ and design guidelines’ intent relative to blending/incorporating neighborhood characteristics and details, frontage standards for dwelling units, residential glazing, light/wind/rain mitigation and parking area screening.”

The applicant’s drawing package (enclosed) elaborates further with responses to Conditions of Approval D, E, F, G, and H and a response to the OKNA appeal (see pages 6 through 19 in the drawing set).

Staff Response:

- 1) Regarding the OKNA appeal to the Adjustment to the Required Ground Floor Active Use standard, and regarding the applicant’s appeal to Condition of Approval “D”, staff tried to strike a balance between the requirements of the standard and applicant’s request for some flexibility. The full staff Findings for this Adjustment can be found on pages 17-21 of the staff decision.

The purpose of the “m” overlay zone reads as follows:

*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.*

Staff found supporting the Adjustment to be a difficult decision to make, especially on a MAX alignment in a fast-growing, high-density neighborhood. Ultimately, staff determined that, even though the proposed two ground-level residential dwelling units and bike storage room along N Interstate Ave interrupt the continuous area of shops and services intended by the “m” overlay, “at a bare minimum, to meet the purpose of this standard, the Required Ground Floor Active Uses...need to anchor the corners of the building and site along N Interstate Ave. Any less would not constitute a ‘continuous area’ of such uses” (staff decision p. 18).

Hence, Condition of Approval “D”, which required providing active uses at both street intersections as opposed to focusing only at the intersection of N Alberta St & N Interstate Ave:

*The proposed bike storage room at the northwest corner of the building shall be converted into a ground floor commercial use space (or other active use as listed in the “m” overlay zone, section 33.415.200); that bike parking that is currently proposed in*

*this room shall be located either in individual units or in the original location shown in Exhibit A.18, or in a similar location to the south of the lobby along the east elevation of the building; and that a storefront entry door shall be placed on the N Interstate Ave frontage of the northwest corner commercial space.*

Even if the Commission were to overturn the staff decision of approval for this Adjustment and require the standard to be met, staff would still recommend that the Commission also require that there be active use spaces at both intersections, as doing so would better meet Guidelines P1 – Plan Area Character, E3 – The Sidewalk Level of Buildings, E4 – Corners that Build Active Intersections, D7 – Blending into the Neighborhood, and D8 – Interest, Quality, and Composition.

Finally, providing a bike parking room at the N Webster and N Interstate Ave intersection does not meet the Ground Floor Windows development standard in the CM3 zone (33.130.230.B.3), which limits bicycle parking areas to only 25% of the ground floor window area on any street frontage. The bike parking room occupies 100% of the ground floor window area on N Webster St.

- 2) Regarding the applicant's appeal of Condition of Approval "E", staff required this condition to provide the desired separation from the sidewalk and layering of plant and screening materials that the Commission has found in previous cases make for the best ground floor residential experience. Note that the applicant's proposal on sheet 9 in their drawing set shows some plants, though these are not guaranteed; they would be provided by individual residents and would be planted in containers. Please also note that no gate is proposed to separate the entry patio from the sidewalk.

Providing for separation of the patios from the sidewalk and layering of plantings better meets Guidelines E3 – The Sidewalk Level of Buildings, D1 – Outdoor Areas, D2 – Main Entrances, D3 – Landscape Features, and D5 – Crime Prevention. Furthermore, providing greater separation through additional landscaping could also better meet Guidelines P1 – Plan Area Character, D7 – Blending into the Neighborhood, and D8 – Interest, Quality, and Composition.

Condition of Approval "E" states:

*Additional in-ground landscape planters, running for the length of the low fences, excepting space for entries, and at least 18 inches in width, shall be placed at the residential patios along N Alberta St. At least 6 inches of this space should be located on the sidewalk side of the fences and planted with ground covers, grasses, or flowering plants, and at least 12 inches should be on the patio side of the fences and planted with evergreen shrubs that will grow as tall as the fence itself.*

- 3) Regarding the applicant's appeal of Condition of Approval "F", staff required this condition to provide additional glazing on otherwise very opaque walls facing both N Interstate Ave and N Alberta St. Though the minimum ground floor window development standard is met, additional glazing would better meet Guidelines E3 – The Sidewalk Level of Buildings, D2 – Main Entrances, and D5 – Crime Prevention. Though not directly addressed in the Findings, providing additional glazing would also help the proposal to better blend into the neighborhood (Guideline D7) and provide additional interest along the street (Guideline D8).

Please note that the applicant's description of a "recessed break metal panel" surrounding the yellow entry doors is a new detail that was not included in drawings provided at the time the staff decision was made. Also, regarding the condition of approval, staff did not recommend

sidelights at the N Alberta St units due to lack of space, though this façade could benefit from additional glazing.

Condition of Approval “F” states:

*Doors with full lights and transom windows above shall be provided at the four ground-level residential unit entries. Sidelights shall also be provided at the two ground-level residential unit entries facing N Interstate Ave.*

- 4) Regarding the applicant’s appeal of Condition of Approval “G”, a four-foot deep canopy is, at best, minimally effective at providing protection from rain, and becomes less so the higher the canopy is placed on the building wall. Lowering the conditioned canopies could provide better rain protection than the higher second floor offset. Additionally, though not required by any condition of approval, providing canopies could allow for the walls along N Interstate to be pushed out closer to the property line, resulting in more square footage for the Required Active Ground Floor Uses that the Adjustment, reducing the impact of the Adjustment request.

Condition of Approval “G” states:

*A canopy or awning system shall be provided at a minimum 4'-0" depth for the length of each storefront window bay on the west elevation of the commercial spaces at the southwest and northwest corners of the building. These canopies or awnings shall all be approved through either a follow-up design review, or they shall all meet the exemption from Design Review in zoning code section 33.420.045.S.*

- 5) Regarding the applicant’s appeal of Condition of Approval “H”, the proposed chain link fence will not adequately screen the parking area from adjacent development, nor does it integrate as well with existing development to the east, both of which are desired by Guideline D4 – Parking Areas and Garages. Adjacent development on the southeast quarter block, in particular, closely abuts the property line and has dwelling unit windows and doors facing the parking area and outdoor courtyard. A simple wood fence would provide a better visual barrier while being minimally impactful on adjacent properties.

Condition of Approval “H” states:

*The proposed chain link fence shall be replaced with the originally-proposed, sight-obscuring wood fence (as shown in Exhibit C.48).*

## VI. NEXT STEPS

- 1) Approve one or both of the appeals, overturning the staff decision of approval with conditions.
  - Approval of the OKNA appeal would require the proposal to meet the Required Ground Floor Active Use standard in 33.415.200.
  - Approval of the Carleton Hart appeal would result in elimination of conditions of approval from the staff decision.
- 2) Deny one or both of the appeals and uphold the staff decision of approval with conditions;
- 3) Deny both of the appeals and deny the proposal;
- 4) Add, delete, or revise one or more conditions of approval from the original staff decision; or
- 5) Request the applicant to return with further revisions.

## VII. LINKS

Community Design Guidelines <https://www.portlandoregon.gov/bps/article/187176>  
Modification Approval Criteria (33.825.040) <https://www.portlandoregon.gov/bps/article/53477>  
Adjustment Approval Criteria (33.805.040) <https://www.portlandoregon.gov/bps/article/54249>  
Commercial / Mixed Use Corridors Zones (33.130) <https://www.portlandoregon.gov/bps/article/53297>  
Centers Main Street Overlay Zone (33.415) <https://www.portlandoregon.gov/bps/article/685537>