



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

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Memorandum

Date: August 14, 2024
To: Adjustment Committee
From: Don Kienholz, Senior City Planner, Land Use Services, PPD
RE: LU 23-107799 AD TIR appeal – Updated Finding for Adjustment #3

On July 3, 2024, we issued a land use decision, LU 23-107799 AD TIR, for a 4-story, 110,000-sf residential building consisting of approximately 124 affordable residential units ranging in size from studios to 3-bedrooms. That decision included four Adjustment requests. After the decision was issued, an appeal was received necessitating this Adjustment Committee appeal hearing. After the appeal was received, it was discovered that the listed Adjustment #3 was not fully described and findings on the entirety of the request were left out. Specifically, the original decision listed Adjustment #3 as:

“Increase the maximum building height from 45-ft to 50-ft, in the C12 zone for portions of the building that are within 40-ft of the lot line along SE 77th Ave. and across the street from the RM1 zone (33.150.210.C.2.b); and...”

But Adjustment #3 should have read as below with the **bolded and highlighted sections included**:

*“Increase the maximum building height from 45-ft to 50-ft, in the C12 zone for portions of the building that are within 40-ft of the lot line along SE 77th Ave. **and SE Division St.** and is across the street from a site zoned RM1 **through RMP** (33.150.210.C.2.b); and...”*

It is important to note that the proposed building has not changed and is the same building as previously approved. The above bolded and highlighted language was left out and the finding was not complete. As a result, the Notice of Appeal Hearing was updated and reissued with the correct Adjustment #3 language and an updated Exhibit C.3 to clearly note what the language was addressing, more than 21-days before the hearing.

The purpose of this memorandum is to update the decision by including the full Adjustment #3, providing the complete finding addressing approval criterion 33.805.040.A, and updating the administrative decision approval language to include the full Adjustment #3. As such, the updated and complete language is shown below in **bold and highlight**:

* * *

ZONING CODE APPROVAL CRITERIA

Adjustment Review

33.805.040 Approval Criteria

The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met.

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and.

Finding: The proposal requires four Adjustments:

1. Increase the maximum setback for a 152-ft segment of the building facing SE 77th from 10-ft to 55-ft for 1 152-ft segment and to 33-ft for a 59-ft segment. (33.150.215.C);
2. Increase the maximum building setback for a 23-ft segment facing SE Division Street from 10-ft 210-ft (33.150.215.C);
3. Increase the maximum building height from 45-ft to 50-ft, in the CI2 zone for portions of the building that are within 40-ft of the lot line along SE 77th Ave. **and SE Division St.** and is across the street from a site zoned RM1 **through RMP** (33.150.210.C.2.b); and
4. Allow one tree to be omitted from the required L1 landscape buffer within the minimum setback for a 25-ft section along SE Division (33.150.240.C and Table 150-2).

Adjustments #1 and #2:

These two proposed Adjustments to the maximum street setback have the same purpose statement, found in 33.150.215.A:

“The required building setbacks promote streetscapes that are consistent with the desired character of the campus institutional zones, and reflect the diversity of neighborhoods within which the campus institutional zones are located. In instances where a campus institutional zone abuts a residential zone, the required setbacks centers complement the residential character of surrounding neighborhood and result in development that will maintain light, air, and the potential for privacy for adjacent residential zones. In instances where a campus institutional zone abuts a mixed-use zone, pedestrian district and/or transit street, the setback requirements promote buildings and activity that are inviting to pedestrians, and contribute to an active pedestrian environment.”

The purpose also requires an evaluation of the proposal to ensure its streetscape/façade is consistent with the desired character of the Campus Institutional-2 (CI2) zone and reflects the neighborhoods the CI2 zone is in. So first, staff must evaluate the character of the CI2 zone found in 33.150.030.B:

“The Campus Institutional 2 (CI2) zone is intended for large medical centers, colleges and universities located in or near a Regional, Town or Neighborhood Center, or along a civic or neighborhood corridor that is served by frequent transit service. Development is intended to be pedestrian-oriented and at a scale that encourages urban-scale medical and educational facilities, while also ensuring compatibility with nearby mixed-use commercial and residential areas. Retail Sales and Service and Office uses are allowed to support the medical or college campus, and to provide services to the surrounding neighborhoods.”

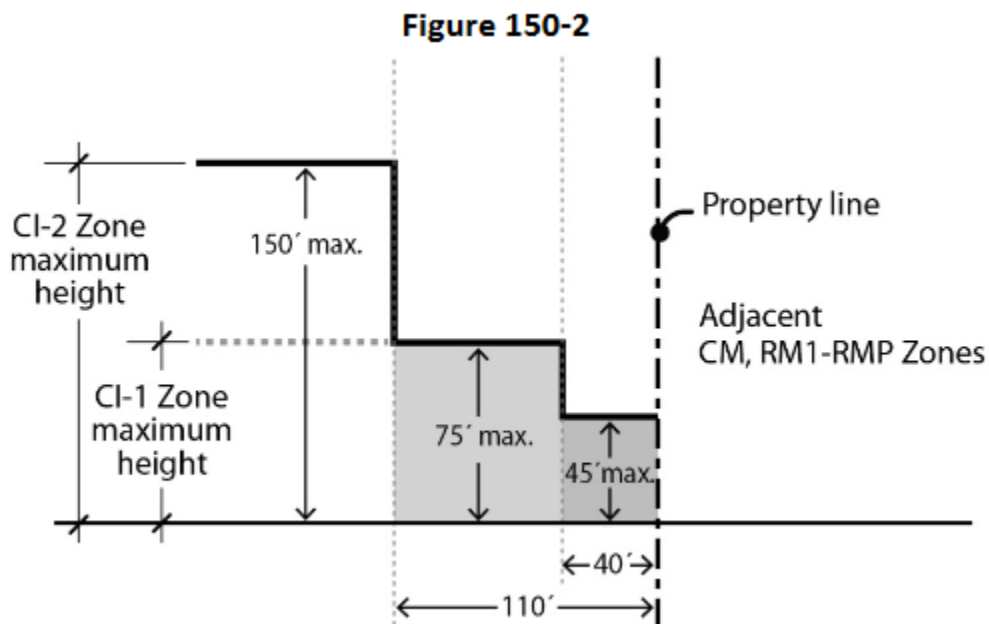
The proposal equally meets these purpose and character statements because:

- The proposal is on the Portland Community College campus at the corner of SE Division St., a transit street with high-frequency service from a Frequent Express Bus, and SE 77th Ave, a local transit street and has the main entrance facing SE Division St.
- The increase of the 10-ft maximum street setback facing SE 77th Ave to 55-ft for a 152-ft segment will preserve and protect several large and significant trees ranging in diameter from 33-in to 40-in that provide significant visual screening of the proposed 4-story building for the dwelling units across SE 77th Ave.
- The larger setback to SE 77th will also increase the amount of light and air between the homes across the street and the subject building as well as increased distance for privacy purposes.
- Increasing the distance from the homes across SE 77th to the proposed building mitigates any potential impact to the difference in size of the buildings.
- Even with a segment of the building more than 10-ft from the property line along SE 77th, a 57-ft segment of the building is still within 10-ft 3-inches of the property line, providing a pedestrian oriented building pattern and connection with the street.
- The increase in the maximum setback from SE Division is only for a 23-ft segment of the 183-ft façade facing south. The 23-ft segment not meeting the setback is located on the rear of the building adjacent to the parking lot more than 200-ft from SE Division. It is physically separated from the 159-ft segment fronting Division that meets the 10-ft maximum setback and visually there is no relationship to the street. As such, pedestrians will focus on and interact with the large 159-ft segment that does meet the maximum setback and contains the main entrance, which is the purpose of the standard.

- The 4-story building is a more dense, urban-scaled development focused on SE Division that provides a pedestrian main entrance directly to the transit street and its high frequency bus service. This design complements the rest of the campus while providing more privacy to the residential zones along SE 77th and SE Sherman.

Adjustment 3:

This adjustment is to increase the maximum building height from 45-ft to 50-ft for two small sections of the building that are within 40-ft of the lot line along SE 77th that is across from an RM1 zone **and for the south facing façade along SE Division St that is across from the RM2 zone.** This standard is intended to provide a stepdown in building height for sites across the street from multi-dwelling residential and commercial/mixed use zones as depicted in the figure below:



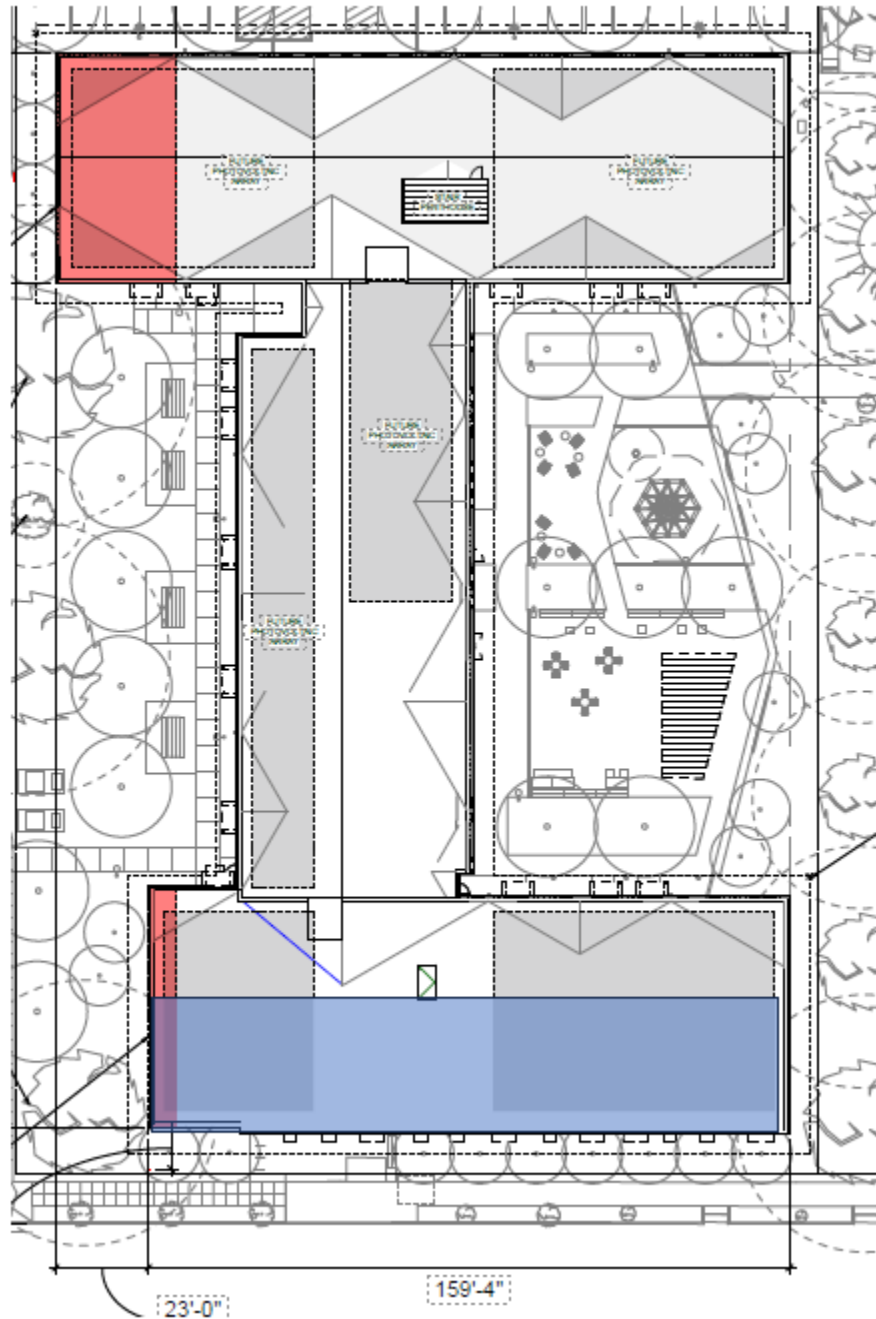
The purpose of the standard is found in 33.150.210.A:

“Purpose. Maximum height limits work with other development standards to control the overall scale of buildings. The height limits in the CI zones allow for urban scale development that generally reflects the intent of each zone. Height limits adjacent to residential and mixed use areas preserve light, air, and the potential for privacy in the adjacent zones, and discourage buildings that visually dominate adjacent development.”

SE 77th Ave. Façade

The proposed building is shaped like a capital I. The vast majority of the building is located in the middle of the site or along SE Division St outside the stepdown zone. On the north side of the property, a 30-ft deep by 57-ft wide section of the ‘hat’ portion of the ‘I’ shaped

building will be 50-ft in height in the stepdown zone, 5-ft more than the base zone allows. The additional 5-ft in height allows for the addition of a full 4th floor in that segment of the building, which will include two, two-bedroom units. Likewise, on the south side of the property, the proposal includes an approximately 7-ft deep by 57-ft wide segment on the 'foot' of the I-shaped building at 50-ft in height instead of the maximum allowed 45-ft within the stepdown height area. A graphic depiction of the portions of the building in the stepdown zone is shown in red below:



The two sections of the building in the step down zone with the additional 5-ft of height account for only 114-ft of the building's nearly 267-ft façade along SE 77th Ave. The vast majority of the building will be entirely out of the stepdown area. The closest point of the building within the stepdown area to the nearest house, which is at the north end, would still be approximately 80-ft away from the house across SE 77th Ave. The closest point of the building in the stepdown area on the south end of the site would be approximately 100-ft from the closest home across SE 77th Ave. With the building being below the maximum building coverage for the whole site and the individual tax lot (if it were a standalone site), the building being below the allowed floor area and the building meeting the minimum setbacks, the proposal will reflect the general intent of the C12 zone.

With such distances between the nearest homes and the two segments of the proposed building that will benefit from this Adjustment, and with the remaining middle section of the building being approximately 120-ft from the nearest house, there will be ample air, light and space for privacy provided while also ensuring the overall mass and bulk of the building will not overwhelm development across the street.

SE Division St. Façade

The south facing façade of the proposed building subject to the height standard is shown in blue above. The building is proposed to measure 50-ft in total height, five more feet than allowed by right within the first 40-ft from the property line along SE Division St. due to the property across the street being zoned RM2.

While the C12 zone allows for an overall maximum height of 150-ft at 110-ft from the property line and 75-ft at 40-ft from the property line, no part of the proposed building exceeds 50-ft anywhere. This means the proposal overall is well below the maximum height and bulk allowed by the zone which prevents a more visually dominant building on the property from being constructed.

With the proposed building being 10-ft from the southern property line, the SE Division St. Right-of-Way being 75-ft wide and the closest building across SE Division being 10-ft from their northern lot line, the proposed building would be no closer than 95-ft to the any of the residential buildings across SE Division St. The 95-ft distance would generally render the additional 5-ft in height indistinguishable at that distance. Additionally, the applicant's L1 buffer along SE Division St. will increase the buffering.

The overall building height being much lower than allowed is also more protective of the privacy of properties across the street because limiting the building to 50-ft prevents additional windows or balconies from looking down into the yards or dwelling units south of Division St than otherwise would be allowed. The additional 5-ft of height will not adversely impact air or solar accessibility of the properties across SE Division since the proposal is north of the street and solar access is from the south.

Adjustment 4: The purpose of the landscaping requirement for buildings when there are residential zones across the street is found in 33.150.240.A and states:

“Purpose. Landscaping is attractive and it helps to soften the effects of built and paved areas. Landscaping also helps cool the air temperature, intercept rainfall and reduce stormwater runoff by providing non-paved permeable surface. Landscaping is required for all campus institutional zoned lands that abut or are across a street from residential zoned lands to provide buffering and promote the livability of the residential lands.”

The applicant has requested to omit one of the required trees from the required L1 landscaping along a 25-ft segment of the frontage along SE Division St beginning at the intersection of SE Division St. and SE 77th Ave because of the need for utility routing in the corner. In this case, the applicant is providing a landscaping strip of 12-ft wide instead of the 5-ft width required by Table 150-2 along the rest of the setback along SE Division St. while also preserving an existing Sycamore-maple tree with a 25-ft crown near the corner. Because the applicant is providing a wider landscaping strip along all but the 25-ft segment of SE Division St. is preserving an existing large tree, and is still providing the necessary ground cover, the standard is equally met since there is an overall increase in landscaping in the front building setback along SE Division St. Staff finds the proposal increases landscaping to help cool the air temperatures, intercept rainfall and reduce stormwater beyond what just meeting the standard would do.

Criterion met.

* * *

ADMINISTRATIVE DECISION

Approval of four Adjustments:

1. Increase the maximum setback for a 152-ft segment of the building facing SE 77th from 10-ft to 55-ft for 1 152-ft segment and to 33-ft for a 59-ft segment. (33.150.215.C);
2. Increase the maximum building setback for a 23-ft segment facing SE Division Street from 10-ft to 210-ft (33.150.215.C);
3. Increase the maximum building height from 45-ft to 50-ft, in the C12 zone for portions of the building that are within 40-ft of the lot line along SE 77th Ave. **and SE Division St.** and is across the street from a site zoned RM1 **through RMP** (33.150.210.C.2.b); and
4. Allow one tree to be omitted from the required L1 landscape buffer within the minimum setback for a 25-ft section along SE Division (33.150.240.C and Table 150-2).

per the approved site plans, Exhibits C.1 through C.3 signed and dated June 26, 2024, subject to the following condition:

- A. A finalized building permit must be obtained to document the approved project. As part of the permit application submittal, each of the site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits

C.1-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 23-107799 TIR AD. No field changes allowed."