



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

Type II Land Use Appeal

MEMORANDUM

Date: May 29, 2020
To: Design Commission
From: Benjamin Nielsen, Design / Historic Review Team
(503) 823-7812 / Benjamin.Nielsen@portlandoregon.gov
Re: LU 19-244401 DZM AD – New Multi-Dwelling Residential at N Montana & Jessup – Type II Design Review with Modifications and Adjustment Review Appeal – June 4, 2020

Attached are 2 drawing sets – the drawing set, dated January 31, 2020, that was evaluated in the Type II staff decision, and a revised drawing set, dated May 20, 2020, with revisions proposed for the Type II Design Review appeal, scheduled on June 4, 2020. Please contact me with any questions or concerns.

I. PROGRAM OVERVIEW

Type II Appeal of a Design Review denial for a proposed new 5-story, approx. 57'-0" tall multi-dwelling residential building consisting of 73 dwelling units in the North Interstate Plan District. Two design exceptions to the Window Projections Into Public Right-of-Way Code Guide standards are requested: to E. Window Area and F. Width standards. Since the Type II staff decision was issued, one Modification request has been added to reduce the width of long-term bicycle parking spaces, and one Adjustment request has been added to provide no on-site loading space—loading would be accommodated in the street.

II. DEVELOPMENT TEAM BIO

Architect	Jessamyn Griffin, Works Progress Architecture, LLP
Owner	Society Overlook LLC (5630-5632 N Montana) and Ryan Young (5626 N Montana)
Project Valuation	\$ 5.3 million

III. LAND USE REVIEW APPROVAL CRITERIA

- Community Design Standards (see attached matrix)
- 33.825.040, Modifications That Will Better Meet Design Review Requirements
- 33.805.040, Adjustment Approval Criteria

IV. MODIFICATION

Subject to the following approval criteria:

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

Modification requested:

1. 33.266.220.C.3 – Standards for all bicycle parking. Bicycle racks for proposed long-term bicycle racks. In the bike storage room, double-decker bicycle racks with 17” spacing are proposed as opposed to the 24” spacing required by the standard. In individual dwelling units, the proposed rack does not allow bikes to be locked on their frame and one wheel, which is also required by this standard. Note: this is a new request since the Type II staff decision was issued.

V. ADJUSTMENT

Subject to the following approval criteria:

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
- B. If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and
- C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and
- D. City-designated scenic resources and historic resources are preserved; and
- E. Any impacts resulting from the adjustment are mitigated to the extent practical; and
- F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.

Adjustment requested:

1. 33.266.310.C.1.a – Loading. An Adjustment is requested to provide no on-site loading and to instead provide for loading on the street. Note: this is a new request since the Type II staff decision was issued; the proposal at the time of the staff decision included the required “Standard B” loading space (18’ long by 9’ wide) at the southwest corner of the site, with driveway access from N Montana Ave.

VI. STAFF DECISION AND RECOMMENDATION

Staff decision.

In February 2020, staff found that the proposal did not adequately meet Guidelines P1 – Plan Area Character, E3 – The Sidewalk Level of Buildings, E4 – Corners that Build Active Intersections, D1 – Outdoor Areas, D3 – Landscape Features, D5 – Crime Prevention, D7 – Blending into the Neighborhood, and D8 – Interest, Quality, and Composition. Specifically, staff found that landscaped setbacks should be provided along both street frontages, with ground level dwelling unit entry patios or porches and additional landscaping in those setbacks, to better meet the desired character of the plan area and blend into the existing neighborhood. Large building projections (aka oriel windows) over both streets further compounded these issues. Material quality at the ground floor was also found to be an issue that could be resolved either by setting the building back from the sidewalk edges or proposing a different material at the ground level.

Staff also found that several development standards were not met and that the necessary Modifications or Adjustments had not been requested.

Design revisions.

The development team has revised the design in response to some of the issues identified by staff in the staff decision of denial; see attached May 20, 2020 drawing set. Most significantly, the building projections/oriel windows over the rights-of-way have been removed from the proposal. Windows have been added to the north elevation at the northwest corner of the building. Louver designs have been adjusted to span the width of windows under which they are proposed. Additional lighting has been provided at the south side of the site. With the exception of the requested Modification and Adjustment, all other relevant development standards appear to be met. Planters in the rights-of-way have been redesigned to meet PBOT encroachment requirements. These changes are described in further detail in the applicant's/appellant's appeal response (refer to the [6-4-2020 LU 19-244401 Appeal Response](#) document online).

The standards previously not met also all now appear to have been resolved with the applicant's/appellant's most-recent submittal, dated May 20, 2020, and the necessary Modification to the long-term bike parking standards has also been requested to address relevant code issues.

Project history.

Some additional background on the proposal is necessary to help understand its evolution. The original proposal consisted of 11 large dwelling units, each containing between 6 to 12 bedrooms. The applicant's stated intention was that the occupancy of these dwelling units would comply with the definition of Household Living as written in PZC Chapter 33.910; however, staff and public comments raised concerns that the program may function more like a Group Living use, which, in addition to Design Review approval, would have required Conditional Use Review approval. In response to these concerns, the applicant revised the proposal to include 73 more traditionally sized dwelling units and added a loading space to the proposal, since this was now also required due to the increase in the unit count.

Following the staff decision of denial and subsequent appeal by the applicant, the case was put on hold due to the public health emergency. Within the last few weeks, during review of the public works permit for the proposal, PBOT notified staff and the applicant that the bureau was not supportive of locating the loading space driveway off of N Montana St. PBOT provided two alternatives: relocate the loading space to have access from N Jessup St, or provide for loading in the street and request an Adjustment. PBOT indicated support for an Adjustment and noted their preference for this alternative.

Finally, it is important to note that the zoning in the area has changed since the initial application was filed. The zoning on the site at the time of land use submittal was RHd – High Density Residential with Design Overlay. As of March 1, 2020, the zoning has changed to RM3d – Residential Multi-Dwelling 3 with Design Overlay. The zoning that applies to this proposal continues to be the original RHd zoning, since that was in effect when the application was submitted. The original RHd zoning will not appear on portlandmaps.com or in the current version of the zoning code online, so please be aware of those facts. I can direct you to the correct version of the zoning code upon request.

Staff comments in response to revised May 20, 2020 drawing set.

The setback and landscaping issues –and related materiality issue – identified by staff continue in the May 20, 2020 design revisions and will likely form the basis for much of the Commission's deliberations on June 4. Therefore, staff recommends no change to the original decision on these subjects.

The building projections/oriel windows over the rights-of-way have been removed, as noted above. It could be argued that the massing is less interesting without these projections (Guideline D8 – Interest, Quality, and Composition), but the Commission will need to weigh this issue against the setback/landscaping issue identified above and against the character of the public realm in this residential area of the North Interstate Plan District.

Staff believes other minor revisions (such as the addition of windows to the north elevation, addition of lighting at the southwest corner, and extension of louvers) as noted above and in the applicant's/appellant's narrative address issues identified in the staff decision and are therefore resolved.

Staff believes the new Modification request to the long-term bike parking standards is supportable and consistent with past Commission decisions.

Regarding the new proposed Adjustment to the on-site loading requirement, organized by approval criteria:

- A. The purpose of the loading standard is: *A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way.*

PBOT has provided a response suggesting that the purpose of the standard, in terms of traffic/pedestrian/bicycle safety is best met by providing loading in the street.

- B. Regarding whether the proposal will “significantly detract from the livability or appearance of the residential area”, locating the loading within the street would allow room for additional landscaping on-site, though this is not represented in the drawings provided. Landscaping in this area, at a minimum, would be necessary to meet this criterion. Per PBOT's response, locating loading within the street would also free up curb space that would otherwise be devoted solely to a driveway for additional on-street parking, which will become increasingly valuable as redevelopment continues in the area. Lack of a dedicated on-site space could potentially lead to traffic conflicts, however, if no curb space is available when loading is needed.

- C & D. These approval criteria do not apply.

- E. Regarding whether “impacts resulting from the adjustment are mitigated to the extent practical”: Were loading to be provided for in the street, it seems that, per testimony by Kristoffer McGill, dated May 27, 2020, regarding the frequency of traffic on N Montana Ave, the loading would best be accommodated in N Jessup St. A loading protocol set by the building owner/management and/or a space designated for loading at specific hours/days (not all hours/days) in N Jessup St. The latter would need to be coordinated with PBOT.
- F. This criterion does not apply.

VI. PROCEDURAL NOTES

- The application was deemed complete on November 18, 2019.
- The staff decision of denial was mailed on February 24, 2020.
- The appeal hearing was rescheduled due to the COVID-19 public health emergency from March 19, 2020 to June 4, 2020.

Attachments:

[Original Staff Decision](#) (online)
[Drawing Set used for the Staff Decision, dated January 31, 2020](#) (online)
[Appeal Filing](#) (online)
Drawing Set dated May 20, 2020 (paper copy, also [online](#))
[Revised Project Narrative](#) (online)
[Applicant's Appeal Response](#) (online)
Copies of Public Comments Received to-date (attached)
Copy of PBOT recommendation re: loading adjustment (attached)
Guidelines Matrix (blank, attached)