



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

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**Date:** May 15, 2014  
**To:** Interested Person  
**From:** Matt Wickstrom, Land Use Services  
503-823-6825 / [Matt.Wickstrom@portlandoregon.gov](mailto:Matt.Wickstrom@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 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.

**CASE FILE NUMBER: LU 14-120576 AD**

**GENERAL INFORMATION**

**Applicant:** Carrie Strickland / Works Partnership Architecture  
524 E Burnside St. Suite 320 / Portland, OR 97214

**Property Owner:** Eric Jacobsen / Madrona Hill Development LLC  
560 First Street / Lake Oswego, OR 97034

**Site Address:** 2730 N KILLINGSWORTH ST

**Legal Description:** BLOCK 2 LOT 4 EXC PT IN ST E 5' OF LOT 5 EXC PT IN ST, MADRONA HILL; BLOCK 2 W 20' OF LOT 5 EXC PT IN ST LOT 6&7 EXC PT IN ST LOT 8 EXC PT IN STS, MADRONA HILL

**Tax Account No.:** R525900400, R525900420

**State ID No.:** 1N1E21BA 01100, 1N1E21BA 01300

**Quarter Section:** 2527

**Neighborhood:** Overlook NA, contact Kent Hoddick at 503-286-9803

**Business District:** Interstate Corridor Business Association, contact Aleksandra Johnson at 503-735-4420

**District Coalition:** North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099

**Plan District:** Albina Community

**Zoning:** CN1 (Neighborhood Commercial 1)

**Case Type:** AD (Adjustment Review)

**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:**

The applicant is proposing mixed use development at this site. The project will consist of two separate buildings sharing an internal courtyard. The buildings will include a total of 25 to 26 dwelling units and approximately 1,500 to 2,000 square feet of retail space. No on-site parking is proposed or required for a project of this size. Mixed use development is an allowed use in the CN1 zone which has a height limit of 30 feet. The buildings are designed with two different roof types - pitched and shed. Height is measured half-way up the peak of pitched roofs and to the peak of shed roofs. The height of the proposed buildings is 34 feet 3 inches for the pitched

roof portions and 39 feet 6 inches for the shed roof portions. The shed roofs face the interior of the project with sides of the shed roofs facing N Greeley Avenue and a commercially-zoned and developed lot on N Killingsworth Street. The applicant requests one Adjustment to increase the allowed height for the proposed buildings from 30 feet to 34 feet 3 inches and 39 feet 6 inches for the shed roof portions.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A through F of Section 33.805.040, Adjustment Approval Criteria, have been met.

**ANALYSIS**

**Site and Vicinity:** The 11,166 square-foot site is comprised of two tax lots located at the southeast corner of N Killingsworth Street and N Greeley Avenue. It is currently developed with a single-story commercial building set back on the lot and a paved area with food carts. The properties to the north across N Killingsworth Street are developed with a single-story commercial building and a three-story multi-dwelling residential building. The property at the northwest corner of the Killingsworth/Greeley intersection is developed with a single-story convenience store. The property across N Greeley Avenue from the site is developed with a single-story restaurant. The site is in the vicinity of the Adidas headquarters.

Like many commercially-zoned and developed nodes in Portland, it is also adjacent to houses in a single-dwelling zone. One of the lots to the south of the site is developed with a single-story home set back approximately 45 feet from the shared property line. The other is developed with a two-story home set back approximately 30 feet from the shared property line. Two lots are located to the east of the site. One is developed with a single-story commercial building fronting on N Killingsworth Street. The other is a commercially-zoned lot developed with a two-story single-dwelling residence fronting on N Burrage Avenue. This home has a detached garage abutting the rear property line. A large deciduous tree is located on the property line the site shares with this home.

**Zoning:** The site is zoned CN1, Neighborhood Commercial 1. The CN1 zone is intended for small sites in or near dense residential neighborhoods. The zone encourages the provision of small scale retail and service uses for nearby residential areas. Development is intended to be pedestrian-oriented and compatible with the scale of surrounding residential areas. The CN1 zone allows buildings up to 30 feet in height. Buildings can occupy a maximum of 85 percent of the site area. Due to close proximity to frequent bus service, no parking is required for multi-dwelling buildings with 30 dwelling units or less. Buildings between 16 and 30 feet in height are required to be set back 8 feet from the property line of residentially zoned lots. Buildings between 31 and 45 feet in height are required to be set back 11 feet from the property line of residentially zoned lots.

**Land Use History:** City records indicate there are no prior land use reviews for this site.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **April 14, 2014**. The following Bureaus have responded:

- The Fire Bureau responded with comments about meeting Fire Code requirements (Exhibit E-1).
- The Life Safety Section of the Bureau of Development Services (BDS) provided information on the building code and obtaining building and mechanical permits for the project (Exhibit E-2).
- The Portland Water Bureau responded with no concerns and provided information on water service (Exhibit E-3).
- The Site Development Section of BDS responded with no concerns and provided information on erosion control and stormwater discharge and treatment (Exhibit E-4).

- The Urban Forestry Section of the Parks Bureau responded with no concerns (Exhibit E-5).
- The Bureau of Environmental Services provided information on sanitary service, stormwater management and permits (Exhibit E-6).
- The Development Review Section of the Portland Bureau of Transportation provided information on street classifications and street improvements associated with the project (Exhibit E-7).

**Neighborhood Review:** A total of seven written responses have been received from either the Neighborhood Association, recognized organizations or notified property owners in response to the proposal.

- One letter was received from the owner of the commercial development across N Killingsworth Street from the site. The respondent requested to see more detailed elevation drawings of the project and criticized the appearance of the buildings. The respondent asked whether zoning regulations regarding minimum required landscaping were met and inquired about recently updated parking requirements (Exhibit F-1).

*Staff response: The respondent (and others who inquired about details and materials of the proposed buildings) was sent an electronic version of the application submittal which included renderings of the proposed buildings. The proposal meets landscape standards which require trees and tall shrubs along the south lot line adjacent to the R5 zone and require 15% of the site to be landscaped. No parking is required for buildings within 500 feet of frequent transit service and with 30 or fewer dwelling units.*

- A letter was received from the owner of the lot to the east – a commercially zoned site that is developed with a single-dwelling residence. The response states that the proposal is 30 percent taller than the allowed height in the CN1 zone (referring to the 39-foot 6-inch height when measured to the peak of the shed roofs). The respondent states that the height of the proposed development would visually dominate the existing single-dwelling residences to the south and east as well as the CN1 zoned properties in the vicinity. The letter states that commercial development adjacent to and across the street from the site is approximately 15 feet in height and other commercial development in the vicinity is approximately 15-25 feet in height and this results in the proposal not meeting criterion B of the approval criteria. The response states that no mitigation is proposed because the buildings are not set back from the west, north and east and therefore criterion E is not met (Exhibit F-2).

*Staff response: These comments are addressed as part of the approval criteria below; however it is important to mention that although the commercial development in the vicinity is approximately 15-25 feet in height, these properties have the opportunity to redevelop within the zoning code requirements, (up to 30 feet measured to the midpoint of the highest gable), or request approval to exceed the development standards through an Adjustment Review, as is occurring on the subject site.*

- The next letter was received from TriMet. The letter provides recommendations about maintaining the location of the current bus stop, keeping no parking restrictions along N Killingsworth Street, and considering incorporating awnings or canopies in the design of the project to provide shelter for bus riders (Exhibit F-3).

*Staff response: These comments are outside the scope of the Adjustment Review. Like all comments, they were forwarded to the applicant for their information and consideration.*

- A letter was received from a property owner who lives on the west side of N Greeley Avenue and south of the site. The letter states opposition to the proposed Adjustment to height because it would exceed the height of retail businesses and residential structures in the neighborhood. The letter states that the building would impact both light and privacy for the single-dwelling residences to the south. The respondent states

that their view would be negatively impacted by the height of the proposed buildings. The letter states that the building would overwhelm the “current neighborhood aesthetic”. The letter states that the current zoning rules allows for a compromise between growth and neighborhood preservation and urges staff to deny the proposed Adjustment to maximum height (Exhibit F-4).

*Staff response: These comments are addressed as part of the approval criteria below.*

- Another letter was received from the Land Use Chair of the Overlook Neighborhood Association. The letter is identical to the one received from the neighbor to the east of the site (Exhibit F-5).

*Staff response: These comments are addressed as part of the approval criteria below.*

- The last two responses were received from property owners to the south of the site. The responses state that the height of the proposed development would visually dominate the surrounding residential areas. The responses also state that the majority of the commercial structures in the area are less than 25 feet in height and the commercial structures to the west, north and east of the site are approximately 15 feet in height (Exhibits F-6 and F-7).

*Staff response: These comments are addressed as part of the approval criteria below; however it is important to mention that although the commercial development in the vicinity is approximately 15-25 feet in height, these properties have the opportunity to redevelop up to the allowed 30 foot height or request approval to exceed the development standards through an Adjustment Review, just as is occurring on the subject site.*

## ZONING CODE APPROVAL CRITERIA

### 33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

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

**Findings:** Associated with a proposed mixed use development at this site, the applicant proposes one Adjustment to increase the maximum allowed height from 30 feet to 34 feet 3 inches, the height measurement for the pitched roof components of the project, and to 39 feet 6 increase, the height measurement for the shed roof components of the project.

The purpose for the height regulations in commercial zones is found in Portland Zoning Coded Section 33.130.210, which states:

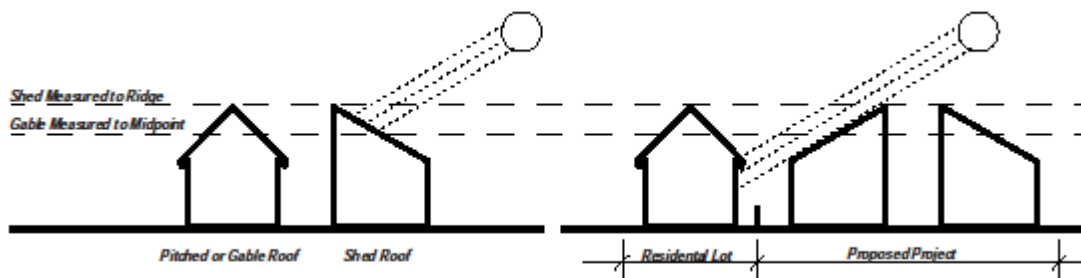
*The height limits are intended to control the overall scale of buildings. The height limits in the CN1, CN2, and CO1 discourage buildings which visually dominate adjacent residential areas. The height limits in the CO2, CM, CS, and CG zones allow for a greater building height at a scale that generally reflects Portland's commercial areas. Light, air, and the potential for privacy are intended to be preserved in adjacent residential zones. The CX zone allows the tallest buildings, consistent with its desired character.*

The project is designed with a mix of pitched (also called gable) and shed roofs. When discussing the proposed Adjustment to height, it is first important to recognize the differences and reasoning behind measuring height for pitched roofs and shed roofs differently. The maximum allowed height for pitched roofs is measured halfway up the gable. This is because the higher the point on the gable, the less the visual impact on surrounding properties because these portions of the roof are further away from neighboring properties and have reduced massing. The maximum allowed height for shed roofs is measured to the peak (also called ridge). This is because the tall wall created by the shed roof has greater impacts on the adjacent property than were the roof pitched. The applicant provided a conceptual drawing to illustrate impacts (Figure 1):

**Figure 1**

**Drawing 1**

**Drawing 2**



Drawing 1 above illustrates that structures with shed roofs can have greater impact on the privacy and availability of light and air for adjacent properties. This is why height is measured to the peak. However, as illustrated in Drawing 2, the shed roofs of the proposed buildings face inward toward the courtyard rather than toward adjacent residentially developed properties. Based on this information, the primary impacts of the shed roofs, and the resulting 39 foot 6 inch height measurement, are internal to the project. The primary impacts of the pitched roofs, and the resulting 34 foot 3 inch height measurement, are external to the project including the residentially developed properties to the south and east. Figure 2 on Page 6 illustrates how the peak of a pitched roof could measure 42 feet while the building would still measure 30 feet in height.

Figure 1 is a conceptual drawing to show impacts of shed roofs on adjacent development; it also illustrates another important topic: sunlight. Preserving light for adjacent residential zones is a component of the purpose statement for height standards in commercial zones. In the case of the proposed buildings, the site is located to the north of the adjacent residential zones and therefore will not block southern exposure for the homes regardless of whether the building were constructed to the 30-foot height limit or not. The home to the east is located in a commercial zone and since the purpose statement specifically calls out residential zones, considerations regarding preservation of light, air and privacy are not intended to be applied to that site.

The applicant also provided a series of massing diagrams to show impacts and massing of development that is allowed by right in the CN1 zone in comparison to the proposal. This is intended to show that the scale of the proposal and transition to adjacent residential development meets the intent of the height regulations more than a building with massing that would be allowed by right.

The first massing diagram (Figure 2) illustrates a building that would be allowed by right in the CN1 zone. It has a pitched roof and occupies 85% of the total site area (the maximum building coverage allowed in the CN1 zone). This percentage of building coverage equates to a 9,491 square foot building area on each floor of the 11,166 square foot site. By comparison, the proposal has a first floor building coverage of only 7,512 square feet, or 68% of the site area (17% less than what would be allowed by right – see Figure 4). When taking into account the reduced massing of the second and third floors due to the second floor terraces, the floor area of the proposed development is reduced to 6,883 square feet, or 62% of the site area (23% less than what would be allowed by right). This reduced building coverage contributes to a building with less bulk than what is allowed by right. For this reason two conditions of approval are added to this land use review. The first condition sets 69% as the maximum building coverage for the site. The second condition caps the maximum floor area on the second and third floors of each building at 3,500 square feet per floor, per building. These amounts are slightly higher than currently proposed in order to allow a small amount of flexibility as the building design and material selection are refined.

**Figure 2**

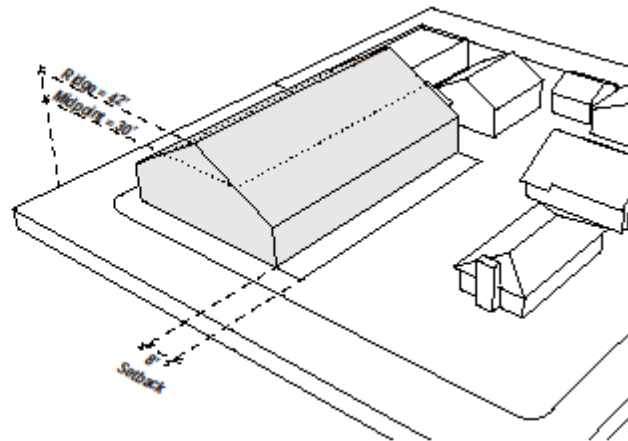
**Allowed:**

Ground Floor Area = 9,491 sq. ft  
 Second Floor Area = 9,491 sq. ft  
 Building Volume = 300,408 cu. ft  
 Lot Coverage = 85%

Code Section 33.130.210 Height – Commercial Zones  
 Table 130-3 – Maximum Height in CN1 Zone = 30ft

Code Section 33.130.215 Setbacks – Table 130-4  
 Minimum Building Setbacks from Residential Zones

Code Section 33.930.050 Measuring Height  
 Measure to the average height of the highest gable.



The building in Figure 2 measures 30 feet in height; however the height at the ridge of this building (also called peak of the roof) would be 42 feet in height, or 2 feet 6 inches less than what is proposed. This drawing shows a building with an overall volume of approximately 300,000 cubic feet whereas the volume of the proposed building is approximately 250,000 cubic feet, or 50,000 cubic feet less than what could be built by right. The approach to building massing and site layout of the proposal contributes to a building with less volume and overall scale than what is allowed by right.

The building illustrated in Figure 3 shows a structure more similar in form to the proposal, but without varying roof types, without reduced floor areas on the second and third floors and without an internal courtyard. The height measured to the ridge of this building is 36 feet or 3 feet 6 inches less than what is proposed; however the volume is approximately 40,000 cubic feet greater than what is proposed and the building coverage is still 17% more (85% rather than 68%). Again, the approach to building massing and site layout of the proposal contributes to a building with less volume and overall scale than what is allowed by right.

**Figure 3****Allowed:**

Ground Floor Area = 9,491 sq. ft  
 Second Floor Area = 9,491 sq. ft  
 Building Volume = 295,482 cu. ft  
 Lot Coverage = 85%

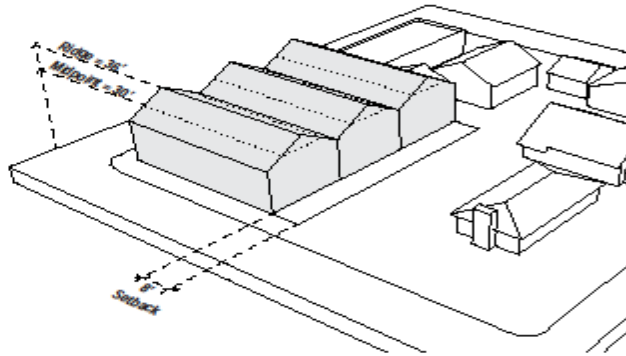
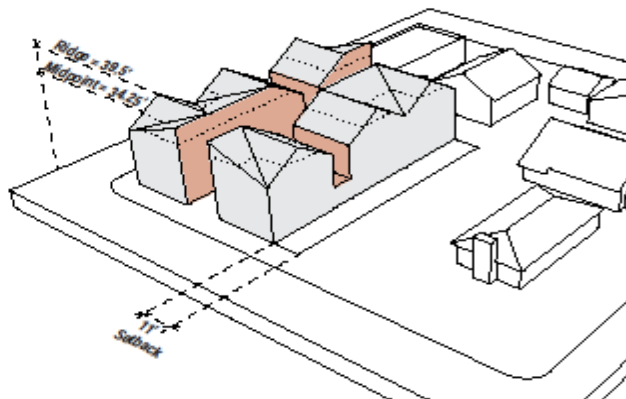


Figure 4 shows the building massing and scale as proposed. It is important to note that the courtyard and reduced building coverage associated with the site layout also play a key role in reducing impacts on privacy for neighbors, especially the residentially zoned lots to the south. When buildings are developed as one solid mass, such as in Figures 2 and 3, social areas such as living rooms or balconies face outward toward surrounding lots and streets. Social areas have more impact than private areas such as bedrooms because there is more activity, use and noise associated with social areas. In the case of the proposed building, the social areas (the living rooms) of the dwelling units on the 2<sup>nd</sup> and 3<sup>rd</sup> floors face the internal courtyard and private areas (the bedrooms) face the surrounding lots or streets. This placement reduces potential impacts on privacy for the surrounding residential development. In order to ensure impacts on privacy for the neighbors in the residential zone are reduced, a condition of approval has been added to this review that requires the living rooms and any balconies (with the exception of the one terrace currently proposed) of the 2<sup>nd</sup> and 3<sup>rd</sup> floor dwelling units of the south building face the courtyard.

**Figure 4****Proposed:**

Ground Floor Area = 7,512 sq. ft  
 Second Floor Area = 6,883 sq. ft  
 Building Volume = 251,939 cu. ft  
 Lot Coverage = 68%



Finally, it is important to recognize that the proposed increase to maximum allowed height results in a greater required setback from the residentially zoned lots. As shown in Figures 2 and 3, buildings up to 30 feet in height must be set back at least 8 feet from a property line shared with a residentially-zoned lot. Buildings between 31 and 45 feet in height must be set back 11 feet from the same property line. The building measures 34 feet 3 inches at the rear and although it is proposed to be 4 feet 3 inches greater than the maximum allowed height (when measuring height for this portion of the building), it is set back an additional 3 feet than would be required were the 30-foot height limit of the CN1 zone.

The purpose statement for height regulations in the CN1 zone is to control the overall scale of buildings and discourage those which visually dominate adjacent residential zones. The proposal provides a scale and massing that equally or better meets this purpose due to the increased setback, the overall decreased volume illustrated in Figures 2 through 4, and the reduced building coverage. The purpose statement also states that light, air and the potential for privacy are intended to be preserved for adjacent residential zones. The proposal meets this purpose due to the social areas of the dwelling units on the second and third floors facing the interior courtyard rather than the residential zones to the south, the inward facing shed roofs and the location of the site north of the residential zones which preserves southern exposure. Based on the information above, this criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** The proposal is located in a C (commercial) zone. The site fronts on N Killingsworth Street and N Greeley Avenue. N Killingsworth is designated as a Neighborhood Collector, Major Transit Priority Street, Local Service Bikeway, City Walkway and Community Corridor by the Transportation Element of the Comprehensive Plan. N Greeley Avenue is designated as a Neighborhood Collector, Transit Access Street, Local Service Bikeway, City Walkway and a Community Corridor. The Portland Bureau of Transportation reviewed the Adjustment proposal and did not report any conflicts between the requested increase to maximum height and the classification of adjacent streets.

The Portland Zoning Code defines “desired character” as:

*The preferred and envisioned character (usually of an area) based on the purpose statement or character statement of the base zone, overlay zone, or plan district. It also includes the preferred and envisioned character based on any adopted area plans or design guidelines for an area.*

Based on this definition and for the purpose of this review, desired character is based on the description of the CN1 zone, the purpose statement for the Albina Community Plan District and a review of the *Albina Community Plan* policies.

The description of the CN1 zone reads:

*The Neighborhood Commercial 1 (CN1) zone is intended for small sites in or near dense residential neighborhoods. The zone encourages the provision of small scale retail and service uses for nearby residential areas. Some uses which are not retail or service in nature are also allowed so a variety of uses may locate in existing buildings. Uses are restricted in size to promote a local orientation and to limit adverse impacts on nearby residential areas. Development is intended to be pedestrian-oriented and compatible with the scale of surrounding residential areas. Parking areas are restricted, since their appearance is generally out of character with the surrounding residential development and the desired orientation of the uses.*

The proposal is consistent with the description of the CN1 zone. The building proposed to face N Killingsworth Street and provides small retail spaces for businesses to serve nearby residential areas. It also provides housing which is an allowed use in all commercial zones including the CN1 zone. The findings above under criterion A explain how the proposed height and scale equally or better meet the purpose of height



regulations in the CN1 zone as well as how the scale, dwelling unit layout and setback at the rear of the south building are compatible with the 30-foot allowed height of the R5 zone while also limiting adverse impacts on privacy. The proposed mixed use buildings are located on the street property lines and provide active ground floor uses such as retail spaces and the internal courtyard, both of which add visual interest and pedestrian orientation. No parking area is proposed.

The purpose statement of the Albina Community Plan District reads:

*The Albina Community plan district implements the Albina Community Plan. The plan district's provisions are intended to ensure that new higher density commercial and industrial developments do not overwhelm nearby residential areas. Infill housing compatibility and affordability is encouraged by eliminating off-street parking requirements for small multi-dwelling housing projects. The plan district's provisions also encourage the development of new housing along Martin Luther King Jr. Boulevard by allowing new housing projects to include ground level commercial uses that orient to King Boulevard.*

The proposal is consistent with the purpose statement of the Albina Community Plan District. The amount of commercial space proposed for the project will not overwhelm nearby residential areas and is located at an intersection with other commercial uses. No parking is proposed or required for this project and therefore it can help promote housing compatibility and affordability. The project is not located along Martin Luther King Jr. Boulevard.

The *Albina Community Plan* includes policies that speak to ensuring the compatibility of new development with nearby housing, fostering the development of complete neighborhoods that have convenient retail and services, and promoting increases in density without clearing sound housing. The plan district also calls for new development to be located along transportation corridors to encourage transit-supportive development.

On balance, the proposal meets the relevant policies of the *Albina Community Plan*. While it may be taller than allowed by right in the CN1 zone, it includes features such as reduced building coverage, further reduced floor areas on the second and third floors and inward facing dwelling units which improve privacy and compatibility with nearby housing. The project provides some retail space which can help promote complete neighborhoods. The project is also located along a street with frequent transit which can promote the use of non-single occupant vehicles.

Based on the information above, this criterion is met.

- 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

**Findings:** Only one adjustment is requested. This criterion does not apply.

- D.** City-designated scenic resources and historic resources are preserved; and

**Findings:** There are no city-designated scenic or historic resources present on the site. This criterion does not apply.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** The proposal adequately mitigates for impacts resulting from the increased building height. The proposed building coverage equals 68% percent of the site area, 17% less than the maximum allowed building coverage. The floor area of the second

and third floors is reduced even more. The internal courtyard allows units on the second and third floors to be designed so that social spaces which have more activity, like the living rooms, face the interior of the project, therefore mitigating for reductions to privacy due to increased height. The building has both shed and pitched roofs; however, the shed roofs which have more visual impact and a greater height face the interior of the project, whereas the portions of the building adjacent to residentially developed sites have pitched roofs and less height (34 feet 3 inches versus 39 feet 6 inches). The portion of the roof adjacent to the residential home to the east is pitched so that it slopes down toward the site. This shows that the roof design addresses the type of adjacent development rather than the zoning. This criterion is met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** The site is not within an environmental zone. This criterion does not apply.

## **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.

## **CONCLUSIONS**

The applicant has requested one Adjustment to the maximum height standard of the CN1 zone in association with a planned mixed use development at this site. The proposal meets the relevant approval criteria for several reasons. First the proposal is designed with approximately 17% less building coverage than is allowed by right in the CN1 zone. Second, the floor area on the second and third floors is less than that on the first floor which reduces the massing of the building. Third, the increased 4 feet 3 inches of building height (if measuring the height of the rear portion of the building) requires an additional 3 foot set back from the property line shared with the residentially-zoned lots. This is almost one foot in additional setback for every additional foot in height. Finally, the social spaces of the dwelling units on the second and third floors face the internal courtyard. This reduces impacts on privacy for the residential lots to the south of the project. The proposal is also consistent with the classification of adjacent streets and, on balance, supportive of relevant zoning characteristics, the plan district purpose statement and policies of the *Albina Community Plan*. The project appropriately mitigates for impacts through the dwelling unit layout on the second and third floors and pitching the roofs appropriately toward surrounding residential development. With conditions of approval, this proposal meets the approval criteria and should be approved.

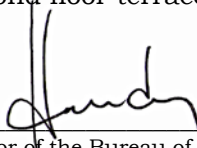
## **ADMINISTRATIVE DECISION**

Approval of an Adjustment to Zoning Code Section 33.130.210 to allow two buildings measuring 34 feet 3 inches to the pitched roofs and 39 feet 6 inches to the peak of the shed roofs, per the approved site plans, Exhibits C-1 through C-4, signed and dated May 8, 2014, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through D) 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 14-120576 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The maximum allowed building coverage on the site is 69% of the site area.

- C. The maximum allowed floor area on the second and third floors of each building is 3,500 square feet per floor, per building.
- D. Living rooms of the dwelling units on the second and third floors of the south building must face the internal courtyard. No balconies may be located on the south side of the south building with the exception of the second floor terrace currently shown on plans.

**Staff Planner: Matt Wickstrom**

**Decision rendered by:**  **on May 13, 2014**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: May 15, 2014**

**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 February 25, 2014, and was determined to be complete on **April 9, 2014**.

*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 February 25, 2014.

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 did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: August 7, 2014.**

**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 Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on May 29, 2014** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on

Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> floor. **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](http://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 Adjustment Committee 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 Adjustment Committee 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 must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **May 30, 2014 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
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:

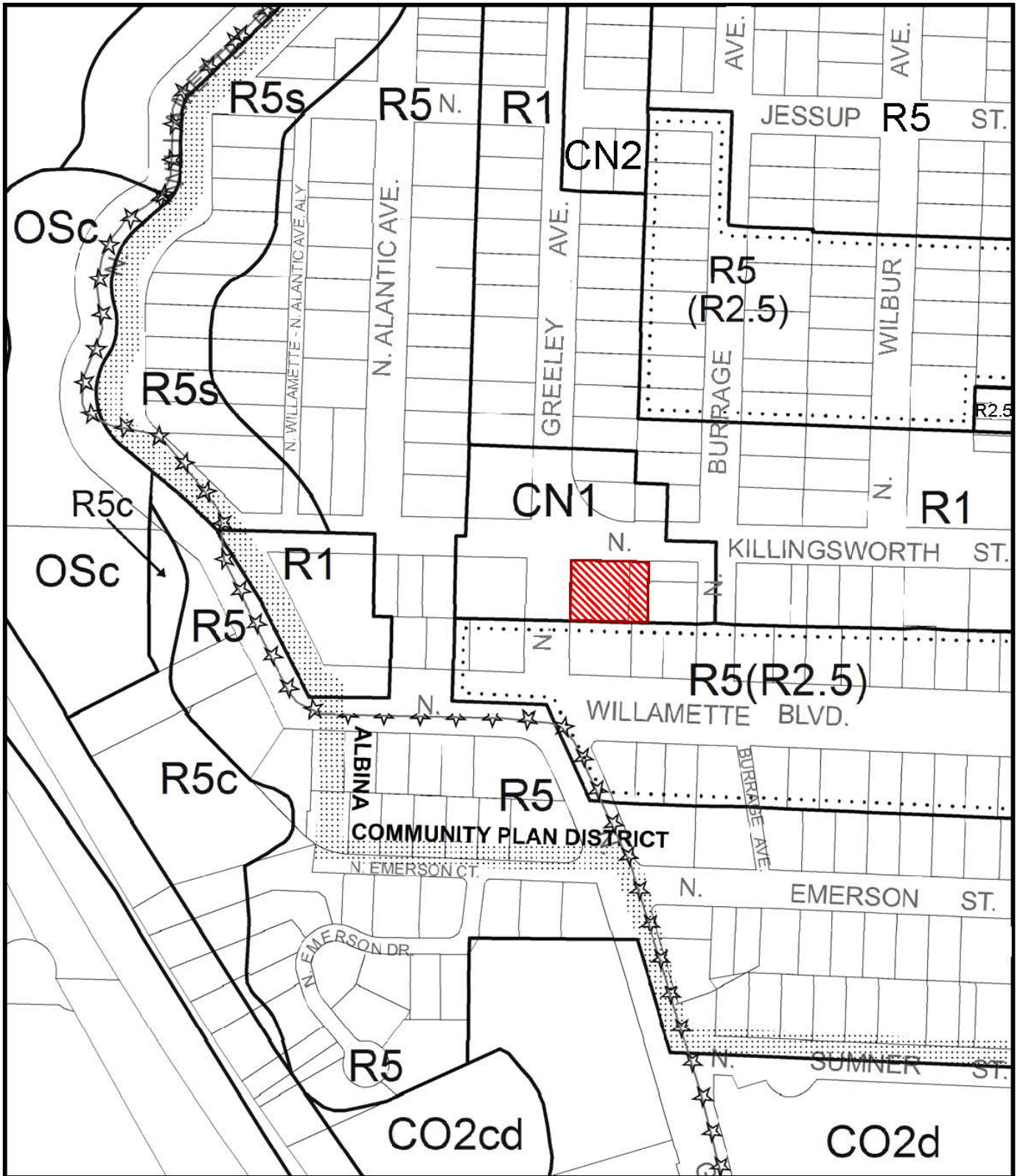
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

#### **EXHIBITS**

#### NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
  1. Incomplete letter from Matt Wickstrom to Carrie Strickland, March 11, 2014
  2. Full sized plan set submitted on April 2, 2014
  3. Diagrams submitted on May 5, 2014
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)
  2. Front and rear elevation drawings showing height measurements
  3. Side elevation drawings showing height measurements
  4. Second floor plan showing layout of dwelling units of south building
  5. Rendering of building looking SW on N Killingsworth Street
  6. Rendering of building looking NE from aerial view
- D. Notification information:
  1. Mailing list
  2. Mailed notice
- E. Agency Responses:
  1. Fire Bureau
  2. Life Safety Section of BDS
  3. Water Bureau
  4. Site Development Review Section of BDS
  5. Summary sheet showing Bureau of Parks, Forestry Division response
  6. Bureau of Environmental Services
  7. Development Review Section of PBOT
- F. Correspondence:
  1. Steven Koch, April 16, 2014, questions about project and parking, concern about appearance
  2. Jim Barta, April 27, 2014, objection to proposal, statements that project doesn't meet approval criteria
  3. Grant O'Connell of TriMet, April 28, 2014, recommendations regarding maintaining current bus stop, maintaining current parking restrictions, and considering canopies or awnings
  4. Jamie Cheshier, May 3, 2014, objection to proposal
  5. Kent Hoddick, Land Use Chair of the Overlook Neighborhood Association, objections to proposal, identical letter to Exhibit F-2
  6. Christopher Brown, May 5, 2014, objection to proposal, statements that approval criteria is not met
  7. Christina Brown, May 5, 2014, objection to proposals, statements that approval criteria is not met

**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



Site



Recreational Trails



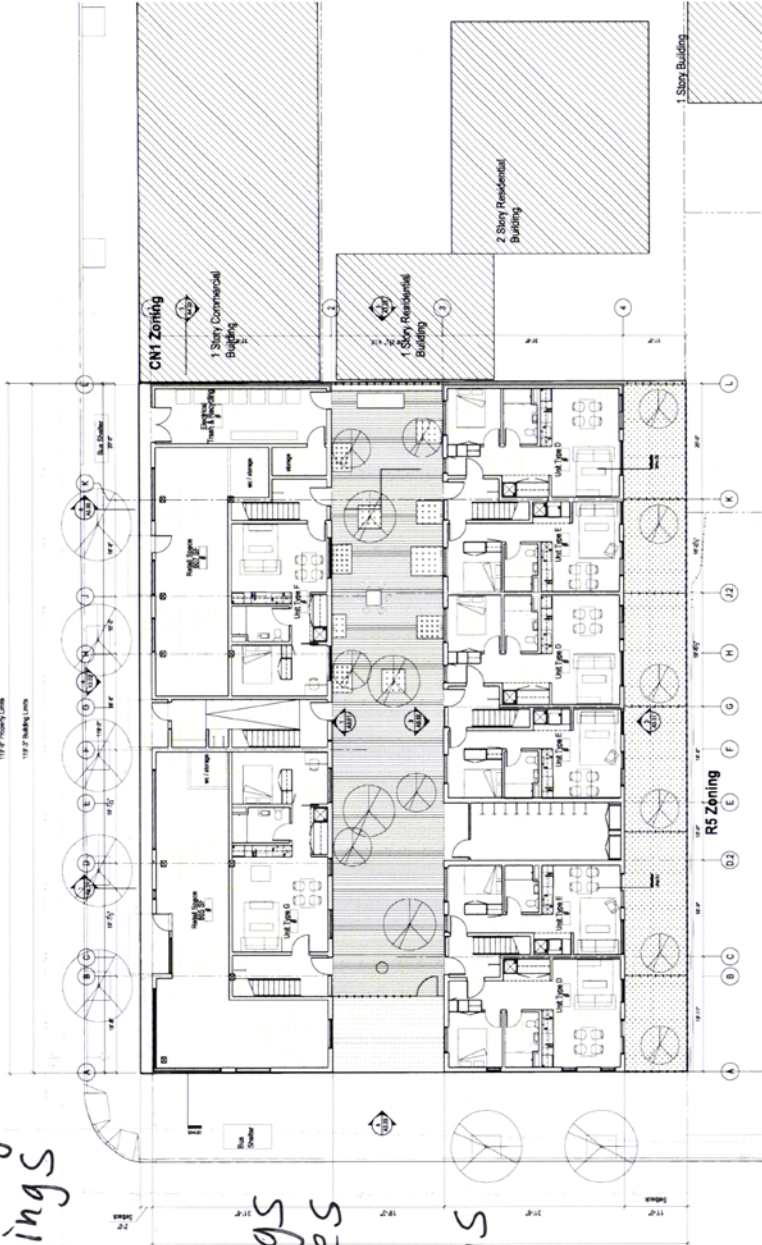
This site lies within the:  
**ALBINA COMMUNITY PLAN DISTRICT**

File No.	<u>LU 14-120576 AD</u>
1/4 Section	<u>2527</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E21BA 1300</u>
Exhibit	<u>B (Feb 27, 2014)</u>

CNI Zoning  
Surface Parking Lot

Approval of one Adjustment  
to Maximum allowed height  
to allow two buildings  
measuring 34 feet 3  
inches to pitched roof  
portions of buildings  
and 39 feet 6 inches  
to the shed roof  
portions of buildings

21,427 GSF  
26 Residential units  
1,472 Net Leasable Retail



PROPOSED SITE PLAN NOTES  
Site Area: 11,402 SF  
Building Footprint: 7,512 SF

Building Height: 39ft 6in  
Lot Coverage: 66%

Impervious Area: 46%

Stormwater: Building gutters drain to on site  
Drywell & Site Hard Surface Areas Drain to  
Infiltration Planters with Overflow to Drywell.



City of Portland - Bureau of Development Services  
Date: 5-8-14  
Planner: MLW  
This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

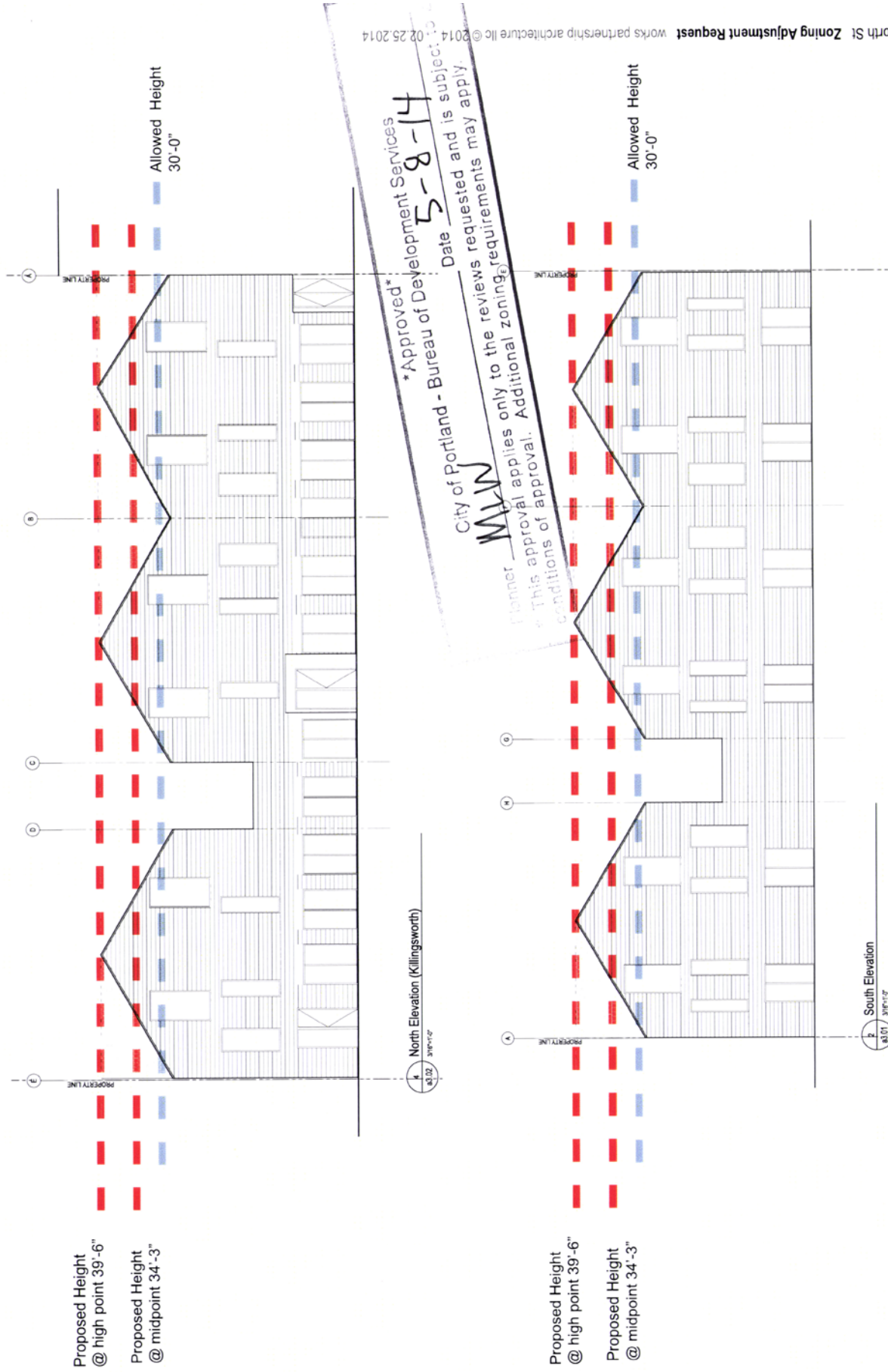
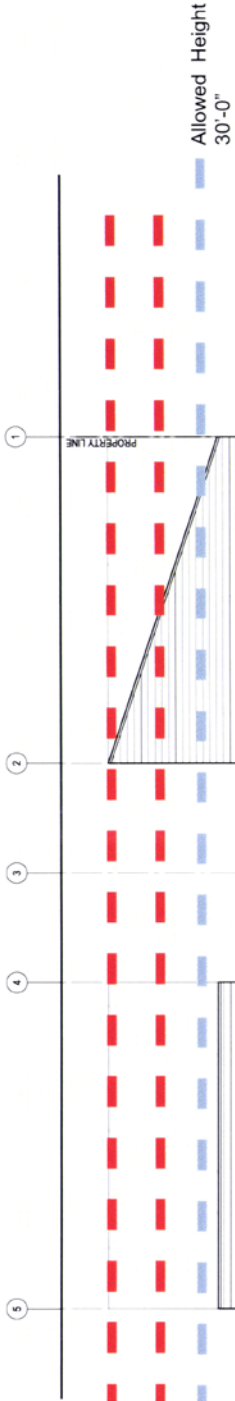


Exhibit C-2



Proposed Height  
@ high point 39'-6"

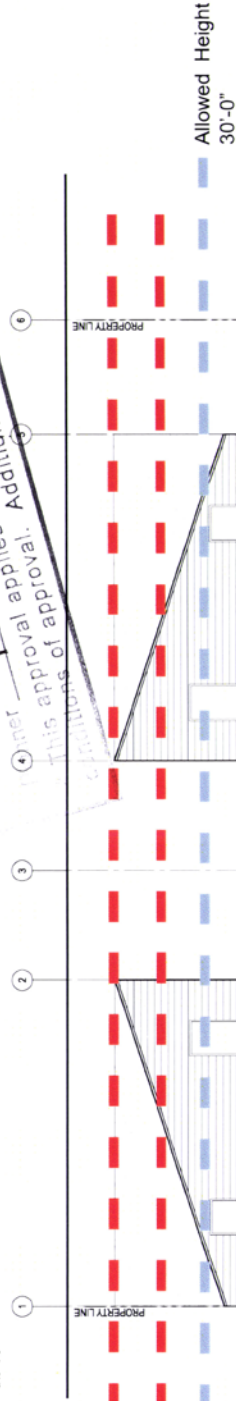
Proposed Height  
@ midpoint 34'-3"



East Elevation  
3/16"=1'-0"

Proposed Height  
@ high point 39'-6"

Proposed Height  
@ midpoint 34'-3"

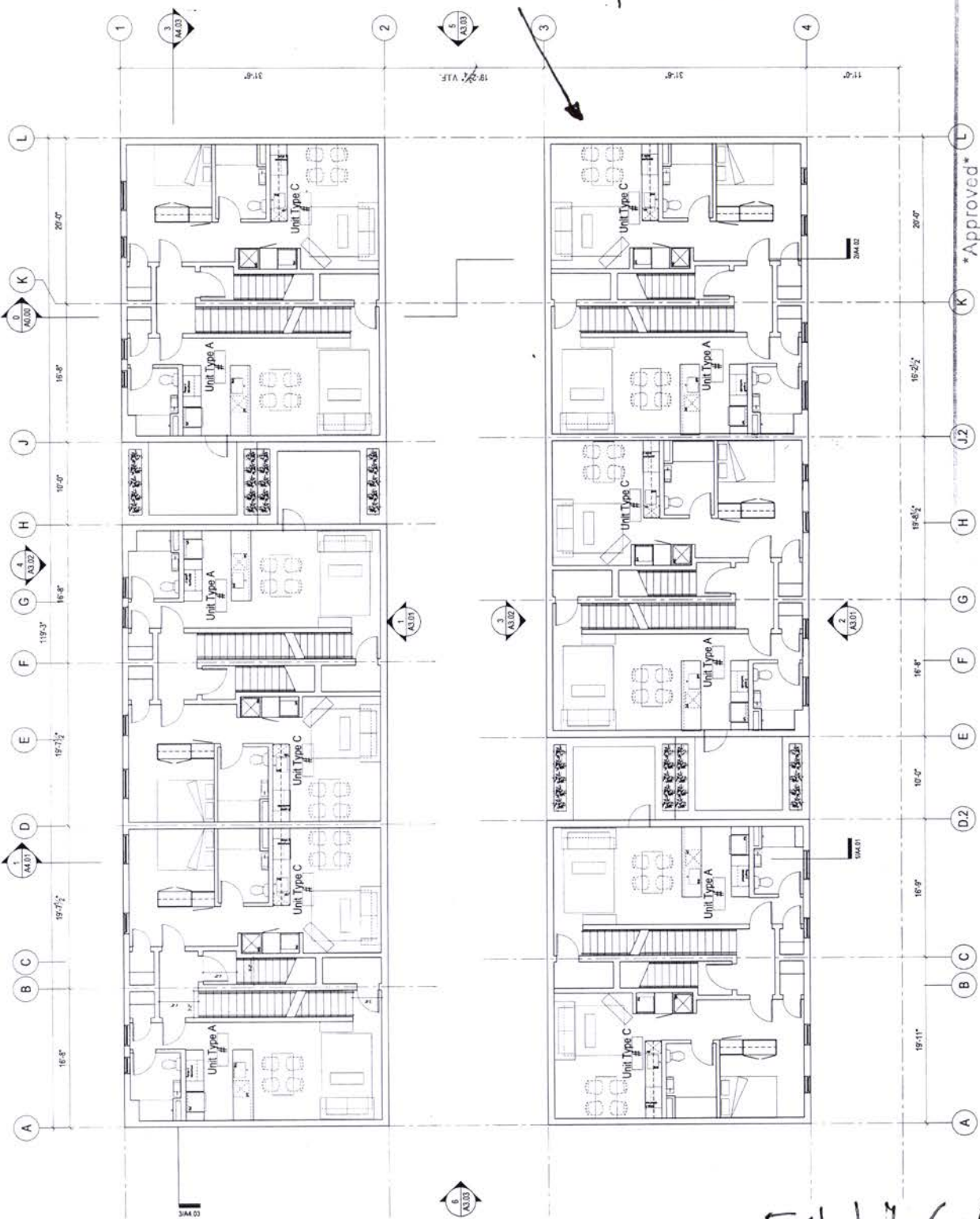


West Elevation (Greeley)  
3/16"=1'-0"

\*Approved\*  
 Date 5-8-14  
 Bureau of Development Services  
 City of Portland - Bureau of Development Services  
 This approval applies only to the reviews requested and is subject to the conditions of approval. Additional zoning requirements may apply.

Exhibit C-3

active areas  
of 2nd + 3rd  
floor dwelling  
units in  
south  
building face  
interior  
courtyard.



W/P A  
works partnership architecture llc  
526 & Grande Street, Suite 200 Portland, OR 97214  
503.234.6543 fax  
503.234.2545 cell  
works@architecture.net

Greeley &  
Killingworth  
2730 N Killingsworth Street  
Portland, OR 97217  
W/P job number: 1135

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Second Floor Plan

a2.02

City of Portland - Bureau of Development Services

MLW

Date 5-8-14

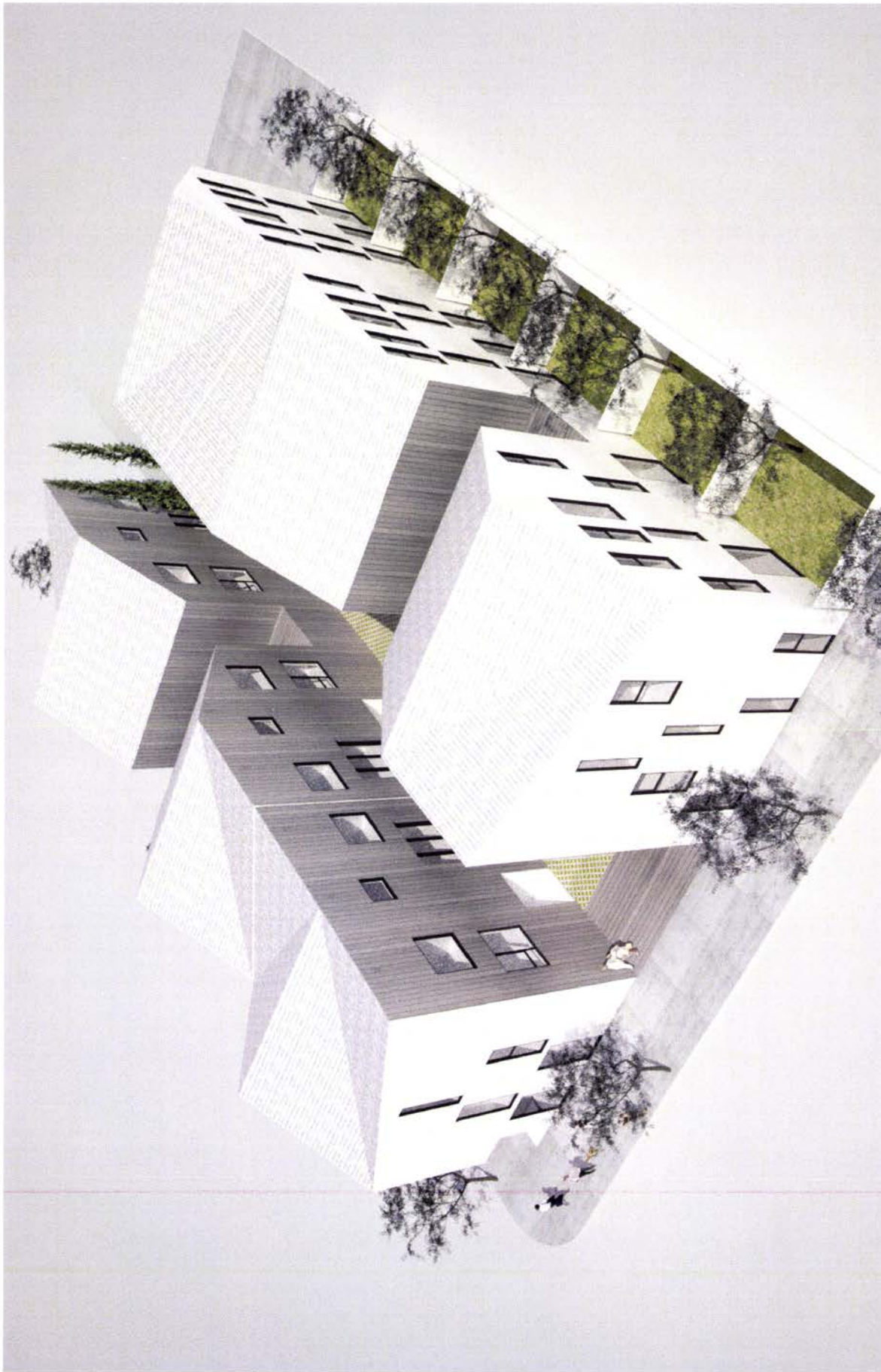
1 Second Floor Plan  
a2.02

This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

Exhibit C-4



Rendering of Building Looking SW On N. Killingsworth St



Aerial View Rendering of Building Looking NE