

Neighborhood Appeal of Approval of LU 09-101831 DZM

TO: Chris Caruso, Land Use Services  
FR: Tracy Olson, on behalf of Neighbors  
DT: 06/17/09  
RE: Administrative Appeal of LU 09-101831 DZM

The Albert Apartment development application should be denied. The modifications to the Development Code standards should be disallowed and Community Design Guidelines enforced if this project is allowed to go forward given the dramatic proposed increase in the intensity, size and concentration of land use given the former properties' historic uses, it's proximity abutting a residentially zoned long-time community of residents, and placement in a neighborhood w/ a unique and valuable character with a valuable cultural history This construction is massive relative to the encircling community in both size and explosion of uses, does not blend into or reflect the character of the surrounding areas, will create a host of off site impacts that have yet to be addressed and is being granted modifications to building codes that intensify the negative public consequences of this development. The Proposed 72 unit development does not meet the BDS directive to ensure that sustainability principles are integrated into the core of Portland's planning, urban design and government operations, strengthening Portland's position as the global epicenter of sustainable practices and commerce.

The Portland Plan is an inclusive, citywide effort to guide the physical, economic, social, cultural and environmental development of Portland over the next 30 years. It strives for excellence in design and to encourage attractive character within the city. Pedestrian considerations, art, neighborhoods are all to be valued and promoted. None are given significance here.

This project fails to meet the purpose and intent of the Community Design Guidelines criteria required by Portland City zoning regulations, the proposed building does not meet the guidelines that are set out in the *Design Overlay Zone* which dictate among other things, that the development support and enhance the character of the district and that the development be compatible with the purpose, goals and objectives of the *Albina Community Plan* and be complimentary to the adjacent Elliot Historic District. The Project does not consider and address all applicable zoning standards.

A reversal of the decision approving the development application of - LU 09-101831 DZM - is warranted and necessary.

**Zoning Designations and Area Considerations**

EX  
Title 33 Zoning Code Development Standards  
Design Overlay Area  
Albina Community Plan Area  
Boise Neighborhood  
Adjacent Historic Elliot Neighborhood Plan

**Community Design Guidelines**

We believe the Community Design Guidelines have not been met and that the administrative decision in this case should be reversed and this application should be denied.

Portland Personality Guidelines

Created to establish the urban design framework, the Portland Personality guidelines recognize the unique characteristics and urban design goals of different parts of the city, and encourage new development that enhances these characteristics and supports these goals.

P1. Community Plan Area and Character

Guideline: Enhance the sense of place and identity by incorporating site and building design features that respond to the area's desired characteristics and traditions.

The Albina Community plan is not been considered with any seriousness in this proposal, the overall building design and specific features do not respond in material, size, mass, architectural detailing to the patterns in the area surrounding it. This is a failure of thies guideline.

This property does not contribute to important areas of community because it is at odds aesthetically and functionally w/ nearby and abutting uses, it ignores direct neighbors in design and scale, it contrast with the existing and long standing character of the neighborhood, and does not work to improve the social vitality of the area because it ignores the inclusion of pedestrian and neighborly amenities.

The proposed development does not follow the Portland personality guideline within the Albina community plan area. This neighborhood and this community is filled w/ heritage era industrial cottages, a former street car line, corner churches, schools, eclectic small businesses, older renovated commercial buildings and the like.

Increasing the massing pattern and consolidation of the tax lots is out of character with the neighborhood. The uniform and relentless massing of the proposed building coupled with the lack of break in form, variety of style in the facade, lack of different aspects to the face of the structure do not reflect neighborhood design patterns.

The buildings 'close relationship to the street' is not a plan reflected in the neighborhood and this building placement does not meet this guideline.

P2 Historical and Conservation districts

Historical and Conservation districts are recognized for their historical and cultural significance. New development in these areas should protect the integrity of individual historic resources and reinforce the historic character that defines the district. New developments near districts should reinforce the historic character of the area.

Guideline: Enhance the identity of historic and conservation districts by incorporating site and building design features that reinforce the area's historic significance.

The Elliot Historic District is adjacent to this development and must be complimented if not completely squashed by the design of this building. The project is 1/2 block away from this area and so must use features to reinforce and complement the historic area. There is no mention of it. And there are no elements in the design to reinforce it.

Community experts have affirmed what is commonly understood in the community about the rich identity of the area, and block specifically. This community knowledge is honored in part by the inclusion by the Architectural Heritage Center of the block in the 'Cornerstones African American Buildings History' project. The Architectural Heritage Center commented in opposition to this project on a number of grounds.

The previous buildings and existing site have strong ties to the local African American community, and the proposed development is disregarding the cultural significance of the site.

### **Project Design Guideline**

These guidelines assure that each development is sensitive to both the area's urban design framework and the users of the city. The entire site should be well-designed: the placement of buildings, outdoor areas and landscape features, main entrances, parking, and walkways should create a functional and aesthetically pleasing environment that provides for efficient, safe, and pleasant movement of pedestrians, bicyclists, and motorists. The guidelines of this section encourage quality development that functions well and enhances the surrounding area.

#### **D1. Outdoor areas**

Project design is improved by thoughtful placement of buildings to maximize usable outdoor areas. These areas should be accessible, pleasant, and safe. In residential areas front and backyard areas can be an extension of the living area by making them visible and easily accessible from inside. In nonresidential developments, public and private squares, plazas, parks, and open spaces are significant amenities for a community. When developing these outdoor areas it is important that they are accessible, inviting, and receive adequate sunlight.

Guideline: When sites are not fully built on, place buildings to create sizable, usable outdoor areas. Design these areas to be accessible, pleasant, and safe. Connect outdoor areas to the circulation system used by pedestrians.

The proposed development does not allow for outdoor areas except a parking lot, which is not required in this high frequency transit development zone. There are no outdoor common areas. City planning staff suggest the paved parking lot be used as a gathering place for residents and imply the outdoor area guideline is met because the paved sidewalk is "accessible, pleasant, and safe". This is inadequate and this guideline is not met. Sidewalks are a given. This is about integrating public spaces into new developments as amenities for a community. This is being done successfully other places.

#### **D3. Landscape features**

Landscape features include plants, as well as paving materials, planters, walls and other outdoor elements. Successful project design incorporates these features to reinforce site and building design and add human scale to the outdoor environment. Plants have many positive uses in the outdoor environment. They can alter adverse microclimates, making the environment more pleasant. Deciduous trees screen the hot sun in summer and in winter allow warm rays to pass between bare branches. Plants may be used to control erosion, provide shade and privacy, and block wind. Landscaping can screen undesirable views as well as frame views or objects of interest. In median strips or along streets, landscaping softens the effects of traffic on the surrounding area and pedestrian ways. Plant materials can soften or muffle sound and help clean the air by absorbing noxious gases, and acting as receptors of dust and dirt particles.

Guideline: Enhance site and building design through appropriate placement, scale, and variety of landscape features.

The applicant filed for a modification to the requirement that they provide landscaping and it was granted by City planning staff. Portlanders pride themselves on their gardens and take pleasure in the natural environment. The choice to eliminate even the most modest interior landscaping provision is negligent in addition to the lack of outdoor areas in the buildings construction to allow building residents access to this healthy environmental feature.

Landscaping features are an integral part of successful design, used to enhance the urban environment and make good transitions, provide habitat, add life and color to the environment. They enhance site and building design through appropriate placement scale and variety.

The planner thought otherwise and signed off on an 72 unit apartment design without interior landscaping requirements. The planner agreed to the request for more parking and no landscaping. This is a violation.

Further study is necessary in the area of noise, water, and air pollution to grant this modification. Although there are planned landscaping buffers along the fence line, there is an echo chamber by way of a partially covered parking lot without integrated noise buffers. This can have an adverse affect on neighbors who may utilize more than the ground floor of their residences. Plants clean the air, and help maintain a healthy urban environment. Constructing a building in such a way so as to prohibit these necessary modifying factors from being incorporated is not acceptable and in violation of the guidelines.

#### D4. Parking areas and Garages

Vehicular access and parking areas should not be the dominant visual element in any development. This can be done by not locating parking areas in front of buildings or on corner lots where they are highly visible, limiting vehicular access across pedestrian paths and using landscaping to screen and visually break up large parking areas.

Parking needs to be within reasonable proximity of main entrances for convenience and to allow for informal surveillance. Parking garages should complement adjacent buildings and enhance the pedestrian environment.

Guideline: Integrate parking in a manner that is attractive and complementary to the site and its surroundings. Locate parking in a manner that minimizes negative impacts on the community and its pedestrians. Design parking garage exteriors to visually respect and integrate with adjacent buildings and environment.

The site does not have a minimum parking requirement due to its location along a high frequency transit line. This is a design choice that is setting an entire bad chain of negative consequences into motion. Without a minimum-parking requirement, there is no need to limit ground floor commercial space from the project to provide additional parking. A full floor of commercial space on the ground level, and the elimination of the tuck under parking concept would better serve the neighborhood. This additional square footage would require the developer to drop the top floor by one story to comply with maximum square footage requirements.

It is unacceptable to electively build a feature as impact ridden as a 49 plus space parking lot and then assert that it's very existence prohibits the mitigation required by the city to handle the negative impacts. This is another instance of wanting to have your cake and eat it too...as they say.

#### D5. Crime Prevention

Successful project design can reduce the opportunity for crime. Design and site features that lower crime levels include giving residents surveillance opportunities by avoiding visual barriers such as high fences, tall hedges, or a garage in the front of the house, and strategically placing windows, balconies, and entries. Parking areas, entry areas, outdoor private and shared spaces, play areas, and walkways need to be designed and located in a manner that considers safety. The areas surrounding a building that are perceived by residents as outdoor extensions of their dwellings should be delineated. Residents should have direct visual and physical access to these areas. Entries that are directly accessible and visible from the street are the safest.

Guideline: Use site design and building orientation to reduce the likelihood of crime through the design and placement of windows, entries, active ground level uses, and outdoor areas.

Crime prevention is disregarded by the failure to integrate the Community Design Guidelines to support social and community amenities as foundations to provide a strong social environment and a healthy community. The orientation and design allows no appropriate public gathering areas to foster neighborhood relations and a sense of community.

The tuck under parking concept provides a visual barrier to residential surveillance activities, and is not designed in a way that considers safety. With the number of proposed units, it is important to consider that residents and non-residents can engage in criminal activity. Additionally, the

South side of the property abuts a parking lot and is secured by a chain link fence. This provides easy access to the obscured tuck under parking area for criminal activity.

D6. Architectural Integrity.

Successful additions and exterior alterations respect the materials, scale, proportion, and architectural style of the original building. Although all elevations are important, the street-facing elevations are the building's most important contribution to the character of the area.

Modifications should have the least impact on the character-defining features that are visible from the street. Rehabilitation work should not destroy distinguishing qualities of the original character of a structure. All buildings should be recognized and valued as products of their time.

Guidelines: Respect the original character of buildings when making modifications that affect the exterior. Make additions compatible in scale, color, details, material proportion, and character with the existing building.

The Executive Director of the Architectural Heritage Center in Portland OR filed comments in opposition to this proposed development and stated that this development "will overwhelm the surrounding neighborhood which is low scale and residential (including the historic house and four-plex directly across NE Beech street) or small-scale commercial in nature and use. It is a full one-story too high as proposed given its location". Additionally, "The fiber cement panel materials proposed for the first story are inappropriate, compared to the balance of the lap siding on the upper floors; this cement material is more appropriate, if at all, for strip-mall and other locations that are undeveloped, rather than a long-established neighborhood and street with multiple residences".

This is an expert commenting. This guideline is not met.

Architectural integrity, building placement and orientation are set out in numerous Portland building codes to provide decent successful development. A four plus story flat wall with balconies overlooking cottage residences below is in stark contrast to and imposes limitations on the surrounding area's future uses.

"It is to Portland's advantage to accommodate growth in a manner that has the least negative impact on its existing neighborhoods. The compatibility of new buildings may be enhanced by incorporating building and site details common in the neighborhood. Successful project design may also relate to the surrounding buildings in terms of scale, color, window proportions, and façade articulation. Large buildings can be designed to reduce negative impacts on the neighborhood by orienting windows away from the private areas of nearby houses, Stepping back buildings bulk from property lines to allow more sunlight to surrounding lots, and using building forms and materials that respect the character of the surrounding area. Site design considerations, such as screening and landscaping, can also help these developments blend into the neighborhood."

The architecture and planning patterns of the surrounding areas include dormers, gables, double hung windows, window trim, front porches, yards, back yards, lap siding, stand alone old time garages, brick, property line step backs, etc., and this proposed building has none of this.

#### D7. Blending into the Neighborhood

It is to Portland's advantage to accommodate growth in a manner that has the least negative impact on its existing neighborhoods. The compatibility of new buildings may be enhanced by incorporating building and site details common in the neighborhood. Successful project design may also relate to the surrounding buildings in terms of scale, color, window proportions, and facade articulation. Large buildings can be designed to reduce negative impacts on the neighborhood by orienting windows away from the private areas of nearby houses, stepping back building bulk from property lines to allow more sunlight to surrounding lots, and using building forms and materials that respect the character of the surrounding area. Site design considerations, such as screening and landscaping, can also help these developments blend into the neighborhood.

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

The massing of buildings, proportions, and materials proposed do not blend into the neighborhood. The mass of the project overwhelms the adjacent properties and changes the identity of the neighborhood. The visual pattern is not met anywhere in the general vicinity. This proposal fails this guideline.

There is not adequate step down or transition into the neighborhood and does not blend into the architecture of this well-established long standing community of industrial cottages .

Portland planning document goals also state "a design that ignores its neighbors damages the special qualities and identity of the area when scale and form change is at issue - facade articulation to recognize the character of surrounding buildings consideration of scale, roof line, windows, color materials to acknowledges the characteristics of surrounding buildings and create consistent pattern and form." This project fails at this.

The findings by City planning staff on pages 7 and 8 of the decision refer to scale and proportion only in relation to the building itself, and not in relation to the surrounding neighborhood they then conclude with the unsubstantiated "the building is appropriately scaled for the site". It seems apparent that the author of the findings did not understand the purpose of this guideline and this guideline is not met.

#### D8. Interest, Quality, and Composition

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.

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

The proposed development does not provide adequate variety in building form, due to its extreme size and scale. The differentiation of details and recessed bays across the façade are lost in the overall mass of the project, providing an overall lack of character.

The interest, quality and composition of the proposed structure are set right now at the bare minimum w/ little thought about design or innovative building. There is no thought to innovative building structure, alternative energy sources, green space cultivation, design w/ any respect for overall aesthetics and function. This site has a design overlay to ensure it meets standards above and beyond the bare minimum. It has failed on this count. The opportunity for Portland to shine architecturally is lost.

### ***Pedestrian Emphasis Guidelines***

These guidelines establish that Portland is a city for pedestrians as well as cars, transit, and bicycles. Creating a network of sidewalks and other paths for pedestrians helps to implement numerous city and regional goals that call for providing a pedestrian network and reducing reliance on the automobile. A pedestrian network also provides opportunities for interaction and activity, which results in a safer and more interesting place.

Stopping places along sidewalks and paths allow people to rest and socialize. The potential for interaction increases where intersections are unified spaces that encourage activities and buildings reinforce the street edge. The first level of a building has a great impact on the pedestrian environment: buildings should be designed to integrate with activities on the sidewalk level, provide architectural details of interest to the pedestrian, and protect the pedestrian from wind, rain, and the hot sun.

### **E1. The Pedestrian Network**

"Create an efficient, pleasant, and safe network of sidewalks and paths for pedestrians that links destination points and nearby residential areas while visually and physically buffering pedestrians from vehicle areas."

Although the development has dedicated 2' of property to increase the sidewalk width to 10', there is no additional buffering between the public right of way (Williams Street, a busy 2-lane, one way transit & bicycle route) and the pedestrian area. This guideline is not met. Additional buffering in the form of planters or landscaped strips should be included.

The proposal does not create a more interesting pedestrian friendly place. It offers no landscape buffers, no transitions between interior and exterior, there are no visual architectural transitions

or details in the finishing materials to create a hospitable welcoming environment. The finishing materials at pedestrian level are concrete, cement, fiberglass and metal garage doors. This proposal includes no integration of architecturally interesting details or pedestrian protections and the finishing materials do not link visually w/ the adjacent neighborhood. The corner is not scaled or detailed or set apart in any way to create an dynamic differentiated space or an active interesting intersection.

New large scale projects should provide comfortable places along pedestrian circulation routes where people may stop, visit, meet, and rest. This proposal includes none.

The opportunity that creating areas for community interaction provides which encourage neighborhood stability and safety have been ignored.

### E2. Stopping places

"New large scale projects should provide comfortable places along pedestrian circulation routes where people may stop, visit, meet, and rest."

There is no evidence that the developers have taken this guideline into consideration. There are many examples in the area where new buildings have accomplished this guideline effectively.

### E3. The sidewalk level of buildings

"Create a sense of enclosure and visual interest to buildings along sidewalks and pedestrian areas by incorporating small scale building design features, creating effective gathering places, and differentiating street level facades."

There are no effective gathering places to be found at the ground level of this building. the set back retail entries are not effective gathering places, given that the dimensions are at best 10' wide X 24" deep, including the width of the entry doors. Additionally, these will be used for private commercial uses, and access to these areas will be weather and business dependent. This guideline has not been met.

At sidewalk level there is no sense of enclosure or visual interest to this proposed building. The side walls are vertical cement. with balconies above. There is no space set aside for gathering places at street level, or as natural resting spots or anything to make it a more intimate and inviting community space.

### E4. Corners that Build Active Intersections

"Create intersections that are active, unified, and have a clear identity through careful scaling detail and location of buildings, outdoor areas and entrances."

The overall size and scale of this building does not allow for creating a unified intersection. It is too massive and does not take into account the style of surrounding buildings, particularly the Queen Anne Victorian house on the NE corner of Beech and Williams. If anything, this building is creating a new identity for the corner with no respect to the existing structures.

E5. Light, Wind, Rain

Successful pedestrian networks should reduce the adverse effects of the sun, shadow, glare, reflections, wind, and rain. Pedestrians will more likely use and be comfortable in public spaces where they can be protected from these elements.

Guidelines: Enhance the comfort of pedestrians by locating and designing buildings and outdoor areas to control the adverse effects of sun, shadow, glare, reflection, wind, and rain.

The massing and spacing of this development does not provide variation in facade and aspect, the lack of landscaping or porches, yard or green space. The lack of exterior public spaces contributes to the failure of this guideline.

Code Analysis

The proposed development proposal application analysis is required to address and meet all applicable zoning code development standards and regulations. The analysis has failed to do so and applicable zoning codes have not been addressed.

33.140.030 Characteristics

This development does not reflect and is dissimilar in massing, scale, design features and/or intensity of use the surrounding area and the criteria for this section have not been met.

33.825 Design Review

33.825.010 Purpose of Design Review

The purpose of this chapter is as follows:

- Design review ensures that development conserves and enhances the recognized special design values of a site or area.
- Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area and to promote quality development near transit facilities.
- Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.
- Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

This proposal fails miserably at considering and applying these purposes in a balanced and fairly weighted sense. Design values, quality, size compatibility, use compatibility, recognition of area values, cultural values, conservation and enhancement of the community design and cultural values, – all these very important elements are not respected nor addressed.

Anxious and frustrated neighbors flooded the neighborhood association w/ their numerous and varied concerns about the compatibility of this enormous new development.

This proposal fails to uphold the fundamental purpose of design review and this design standard is not met. The check on and facilitation of thoughtful design is lacking in considering and contributing to a vital and healthy local environment. Among other things that are not properly established are the appropriate massing and placement of new structures, cultural and neighborhood design values, and the cultivation of a vital social environment and continuity. .

### **33.825.055 Approval Criteria**

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

The applicant did not fulfill their burden to show that the proposal complies with the design guidelines for the area because in fact it does not. Additionally, the applicant does not acknowledge the Albina Community Plan as a directive and does not make mention of the important history of the block or the neighbors currently living near it.

The aggregate consequences of the modifications and design compromises allowed make this proposal impossible to justify on the grounds that it meets design standards and zoning codes.

### **33.120.120 Nuisance-Related Impacts**

Off-site impacts. All nonresidential primary and accessory uses must comply with the standards of Chapter 33.262, Off-Site Impacts.

### **33.262.010 Purpose**

The regulations of this chapter are designed to protect all uses in the R, C and OS zones from certain objectionable off-site impacts associated with nonresidential uses. These impacts include noise, vibration, odors, shadow and glare, parking fumes. The standards ensure that uses provide adequate control measures or locate in areas where the community is protected from health hazards and nuisances. The use of objective standards provides a measurable means of determining specified off-site impacts.

### **33.262.020 Applying These Regulations**

Nonresidential uses in all zones which cause off-site impacts on uses in the R, C, and OS zones are required to meet the standards of this chapter.

The off-site impacts and limitations on use to abutting R zones of the proposed development include but are not limited to shadow, noise, light, odor, pollution, glare. These must be measured and addressed and properly mitigated for.

The proposal will intensify the negative off site impacts and loss of uses for the surrounding community, which is a R2 zoned residential neighborhood according to zoning code is a low density multi-dwelling zone. Allowed housing is characterized by one to three story buildings. The majority of new development allowed in this area are duplexes, townhouses, rowhouses and garden apartments and modest single family dwellings. The residents of this area include many young families as well as older life long community members. .

**33.266.210 Required Bicycle Parking**

The requirements for bicycle parking are not met. See table 266-6.

**33.4.20 Design Overlay Zone**

**33.218.010 Purpose**

Design review ensures that development conserves and enhances the recognized special design values of a site or area, and promote the conservation, enhancement, and continued vitality of special areas of the City.

The regulations in an overlay zone supersede regulations in base zones and establish prioritization in decision making towards the promotion of the architectural character and continuing vitality of the abutting residential areas along with it's special design values.. This design overlay designation sets a review process that must actively necessitate design incorporating human scale elements. This is not done and this development standard it not met.

Architectural and cultural community experts stand on record in opposition this project on the grounds that it does not fulfill the obligation to ensure that the unique cultural values of the area are conserved and enhanced. The standard to protect and enhance these community values is not met.

The plan has failed to encourage high design quality and instead is prioritizing maximization of physical leasable mass along with intensity of uses over cultural, architectural, and sensible and sustainable design features. Design overlay dictates do not allow this to this extreme.

Many design features touted by the developer are still merely proposed and subject to compromise by the developer. These may not be factored into decision-making as their existence is theoretical..

The number and degree of concessions by the community on livability issues and standards, cultural recognition and preservation efforts, and longer term neighborhood goals of enhancement bely the intention and purpose that instructs design overlay zoning.

This decision does not affirm or adhere to the direction found in the overlay zone designation in a meaningful and actual way.

**140.220 Building Coverage**

Purpose. The building coverage standards work with the FAR, height, and setback standards to control the overall bulk of structures. The standards assure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent development or be inconsistent with the desired character of the zone.

The scale, mass, height and intensity and concentration of uses of the proposed development is enormous in relation to every surrounding dwelling, commercial and residential for blocks in every direction and is widely out of proportion to the surrounding community. The code analysis and development planning around these issues have failed completely to uphold the purpose in guidelines and code of protecting that relationship to the surrounding areas.

The proposed development does not reflect in scale, height, massing, and bulk the entire neighborhood surrounding it, nor the residential zone abutting it. Neither does the proposed development transition at all into the surrounding neighborhood. The contrasts are glaring and bully the neighborhood.

### **33.140.205 Floor Area Ratio**

A. Purpose. Floor area ratios (FARs) regulate the amount of use (the intensity) allowed on a site. FARs provide a means to match the potential amount of uses with the desired character of the area and the provision of public services. FARs also work with the height, setback, and building coverage standards to control the overall bulk of development.

This code standard is not met due to the modifications to height and setbacks and choice to include a parking lot on the ground floor which works in opposition to the purposes of this provision.

### **33.140.210 Height**

A. Purpose. The height standards work with the FAR, building setback, and building coverage standards to control the overall bulk and intensity of an area.

The bulk and intensity of this proposed development are exaggerated by the development expansions requesting increases in the height allowances with respect to abutting property lines. This code standard is not met,

### **33.140.225 Landscaped Areas**

A. Purpose. Landscaping is required to help soften the effects of built and paved areas. It also helps in reducing stormwater runoff by providing a surface into which stormwater can percolate. Landscaping is required for all employment and industrially zoned lands abutting R-zoned lands to provide buffering and promote the livability of the residential lands.

This project is responsible at the least for L<sub>3</sub>, high screen. The L<sub>3</sub> standard is a landscape treatment which uses screening to provide the physical and visual separation between uses or development. It is used in those instances where visual separation is required. The L<sub>3</sub> standard

requires enough high shrubs to form a screen 6 feet high.

The proposed development landscaping mandate is predicated on a storm water management system that has yet to be approved.

A six foot high barrier does not meet screening requirements when the object being screened is 65. high and 300 plus feet wide. This size structure is out of character w/ typical zoning in this area and so this size screen is consequently inadequate.

The proposed development is requesting modifications to eliminate over 2200 square feet of required landscaping in their parking lot.

This landscaping code standard is not met in total and is a fundamental and tell tale failing.

### **33.140.280 Demolitions**

Demolitions of all structures must comply with Chapter 33.445, Historic Resource Protection Zone.

There was no notice to the neighborhood regarding the demolition of the buildings at the address, despite the much-celebrated prior long-time business uses by Brooks Grocery & Meats, the House of Sound, the NAACP's offices and the late Willie Harris Sportsman Barber Shop and Williams St. Market. The complex was identified on the Architectural Heritage Center's Cornersontes African American Buildings History project given its long and continuing African American associations over time.

Destruction of the building on the lots occurred without notice to the many people who cared about the respecting the cultural history of the Boise Neighborhood including the legacy of Willie Harris and the House of Sound and Building.

This injustice and disrespect toward the Boise Neighborhood from outside the community is an insult worth mentioning.

### **33.825.040 Modifications That Will Better Meet Design Review Requirements**

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the design review process. These modifications are done as part of design review and are not required to go through the adjustment process.

*Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through design review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:*

A. Better meets design guidelines. The resulting development will better meet the applicable design guidelines; and

B. Purpose of the standard. On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

**Modification request 33.140.215 B Minimum Building Setbacks**

**33.140.215 Setbacks**

Purpose. The setback standards are also intended to ensure that development will preserve light, air, and privacy for abutting residential zones. Setbacks work in conjunction with the FARs, height, and building coverage standards to control the overall bulk of development.

Decreasing the set back to 11 feet for 122 feet along the back property line, allowing balconies to extend another 2 feet beyond that into the setback results in the building mass to inappropriately interfere in the set back for 122 feet along the property lines. The additional 2 foot balconies extending back and into the space of the neighborhood for this entire span.

The parking lot wall extend 127 feet at 38 feet from the property lines. This setback modification does not work to control the mass and bulk of the building and thus does not meet the purpose of the design standard, is not consistent w/ the purpose of the standard and does not meet any community design guidelines. This modification must be disallowed.

Averages are not allowed by code to justify exceptions to setback requirements owed to abutting residential neighborhoods – and for failure to meet setbacks

The form and mass and scale of the building – built over top a paved and unlandscaped parking lot, which is an elective strategy of the developers - simply allows building more mass and height higher and higher, which blocks more space, towers over the neighborhood and imposes greater shadows, noise light and impacts the use of abutting and nearby properties. This proposed property is dominating and overwhelming to the character of the neighborhood.

The design overlay mandates do not leave latitude in code modification or guideline compromises for numerous building features that in the aggregate overwhelm in size and intensity of use, the abutting neighborhood.

The setback modification is related to the intensity of use and requires Adjustment Process.

This modification does not better meet community guidelines. Furthermore the inclusion of the parking lot forces the building development to tower above the neighborhood by elevating the building. It is unacceptable to force greater negative impacts on the neighborhood through a feature chosen by the developer needed to qualify for funding.

**Modification request 33.266.130.G.3 Parking Area Setbacks and Landscapes**

33.266.130 Development Standards for All Other Uses

A. Purpose. The development standards promote vehicle areas which are safe and attractive for motorists and pedestrians. Vehicle area locations are restricted in some zones to promote the desired character of those zones. The parking area layout standards are intended to promote safe circulation within the parking area, provide for the effective management of stormwater runoff from vehicle areas. The setback and landscaping standards: Improve and soften the appearance of parking areas; Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones; Provide flexibility to reduce the visual impacts of small residential parking lots; Shade and cool parking areas; Reduce the amount and rate of stormwater runoff from vehicle areas; Reduce pollution and temperature of stormwater runoff from vehicle areas; and Decrease airborne and waterborne pollution.

These purposes of the landscape requirements the city requires in this 49 parking space parking lot are tied and responsive directly to the landscaping purposes in 33.140.225 Landscaped Area to help soften the effects of built and paved areas. It also helps in reducing storm water runoff by providing a surface into which storm water can percolate. Landscaping is required for all employment and industrially zoned lands abutting R-zoned lands to provide buffering and promote the livability of the residential lands.

This modification does not better meet these code requirements, and in fact completely disregards the purposes and intent behind them and so fails.

This modification is an insult to the purposes of the standard. It reduces the Sq. Ft of required landscaping by 2205 Sq. Ft. The impact of this enormous reduction is not in line w/ the purpose or the intent of numerous and multiple guidelines and standards around the importance of landscaping.

The choice to forego minimum code standards of landscaping add insult to injury accentuating and intensifying the negative impacts that design guidelines and standards are meant to ameliorate including pollution, vehicle runoff, temperature, air quality, noise and sight buffers, livability, design enhancement etc.

This parking area is not required. This is the developer here have a choice. The choice is based on money not on community enhancement . This feature is required by the bank because of the extraordinary size of the proposed development. These are all choices not the only alternative.

The number, location and types of parking spaces are at issue as well as the mitigation measures put in place to offset the harm this will do to the surrounding residences and community members. This modification agreeance is unfounded.

Modification request 33.266.310.D Size of loading Spaces.

33.266.310 Loading Standards

A. Purpose. 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.

E. Placement, setbacks and landscaping. Loading areas must comply with the setback and perimeter landscaping standards stated in Table 266-7 below. When parking areas are prohibited or not allowed between a building and a street, loading areas are also prohibited or not allowed.

This modification forces more commercial use and disruption of bicycle, pedestrian and automobile traffic along a highly used transit street, and is in violation of the size and design of loading spaces.

The proposal due to its size is required to provide the two loading spaces, Each are required to be of a size that encourages safe traffic flow. The proposed modification is in place to meet this number and to force more use into an inadequate amount of space to meet their code requirements. This is a safety issue that must be addressed.

Table 266-7 requires L4 landscaping around a loading zone. This is not addressed and this code standard is not met.

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***Environmental and Infrastructure Concerns***

The infrastructure in this neighborhood is not prepared nor able to meet this gross exaggeration in the intensity and congestion of use. The noise, air quality issues, light pollution issues, traffic flow problems have not been addressed.