



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

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Date: November 13, 2015
To: Interested Person
From: Marguerite Feuersanger, Land Use Services
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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 mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 15-164969 AD

GENERAL INFORMATION

Applicant: Michelle A Ruber
 4623 NE 18th Avenue
 Portland, OR 97211-5717

Owner: Shift Vacation Rentals LLC
 4623 NE 18th Avenue
 Portland, OR 97211

Site Address: 1421 NE Alberta Street

Legal Description: BLOCK 23 W 1/2 OF S 1/2 OF LOT 7 W 1/2 OF LOT 8, VERNON
Tax Account No.: R860704320
State ID No.: 1N1E23AB 25600
Quarter Section: 2532
Neighborhood: King, contact Leigh Rappaport at 503-490-8388.
Business District: Alberta Main Street, contact Sara Wittenberg at 503-683-3252.
District Coalition: Northeast Coalition of Neighborhoods, contact Lokyee Au at 503-388-9030.

Zoning: CSh, Commercial Storefront Zone, within the Aircraft Landing Overlay Zone (h)

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

Proposal:
 The applicant proposes to convert the existing duplex (two residential units within one building) into a vacation rental. The site is within the CS Zone, a commercial zone that allows vacation rentals. The upper unit has four bedrooms and the lower unit has three bedrooms. Because the structure is being converted from a residential use to a commercial use, the site must now comply with development standards for commercial uses. Commercial uses are

required to have a direct pedestrian path, at least six feet in width, connecting the public sidewalk to the building's main entrance. The site has a direct path to the entrance, but it is only five feet in width. Therefore, an Adjustment to reduce the pedestrian path width from six feet to five feet is requested for the existing stairs and the entry fence opening. The applicant has expanded the remaining at-grade portion of the path to six feet in width.

Vehicle parking is not required for this proposal and is not provided on this site. Two on-site parking spaces have been removed and replaced with a patio; the curb and sidewalk along NE Alberta Street has been reconstructed. Additional on-street parking is available along the former curb cut location. Note that the applicant's original request was to retain the two parking spaces. The driveway area, however, is not of sufficient size to allow drivers to exit in a forward motion. Instead, drivers must back out onto NE Alberta Street. Traffic volumes are high on NE Alberta Street, and most drivers will be guests of the vacation rental who are unfamiliar with the site and traffic conditions. To address these traffic safety concerns, the applicant has revised the proposal to remove on-site parking. Two short-term and two long-term bicycle parking spaces have been added to the site.

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 site is 3,972 square-feet in area, located on the north side of NE Alberta St, just east of NE 14th Avenue. It is developed with an early 20th century house that was recently converted to a duplex. Two on-site vehicle parking spaces were removed from the site. The paving for the former onsite driveway remains, and will be used as outdoor area for the proposed vacation rental business.

The character of NE Alberta Street is predominantly commercial. It is an active and lively street with a mix of storefront buildings, generally located near the front property line and rarely exceeding two stories in height. Examples of early 20th Century houses punctuate the commercial development; most have been converted to businesses. Restaurants provide outdoor seating on their sites. Pedestrian amenities within the public right-of-way, such as dining tables, benches and landscape planters, are common. Two bus lines serve the site and provide frequent transit service: Transit line #72 runs along NE Alberta Street and the #8 transit line along NE 15th Avenue, about 300 feet east of the site.

Zoning: The Storefront Commercial (CS) zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone intends that new development in these areas will be compatible with this desired character. The zone allows a full range of retail, service and business uses with a local and regional market area. Industrial uses are allowed but are limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. The desired character includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

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 **August 11, 2015**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E-1)
- Water Bureau (Exhibit E-3)
- Site Development Section of BDS (Exhibit E-4)

- Life Safety Plans Examiner of BDS(Exhibit E-5)
- Fire Bureau (Exhibit E-6)

The Bureau of Transportation Engineering responded with the condition that the driveway approach be closed: (see Exhibit E-2). This condition has been satisfied (Right-of-Way Permit #87355).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on August 11, 2015. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

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.

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

Findings: The applicant is requesting an Adjustment to Zoning Code Pedestrian Standards, Section 33.130.240. The purpose of the pedestrian standards are:

***Purpose.** The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in all developments. They ensure a direct pedestrian connection between abutting streets and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible.*

The existing pedestrian connection is a direct path from the city sidewalk of NE Alberta Street to the front entrance of the building. The at-grade portion of the path meets the pedestrian standard as it is six feet in width, composed of concrete bordered with pavers on each side. The concrete path connects to wood stairs leading to the front porch. Most of the path's length is composed of stairs, which rise about five feet from grade level, and lead to the porch and front entry. Only five feet wide, the stairs' width is one foot shy of satisfying the minimum standard of six feet.

As viewed from the city sidewalk, the path and building entrance are welcoming and attractive. The building and stairs appear newly painted and well-maintained. A handrail borders each side of the stairs. Because the building is close to the front property line, the path's length only about 10 feet, a relatively short distance. These conditions result in an on-site pedestrian system that is safe, attractive and useable. Therefore, the proposal meets the purpose of the regulation. 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 site has frontage along NE Alberta Street, classified as a Community Transit Street and City Walkway in the City's Transportation System Plan (TSP). In the written response, Transportation staff raised no concerns regarding the Adjustment to reduce the width of a portion of the on-site pedestrian connection.

The term "desired character" is defined in the Zoning Code as based on the purpose statement of the base zone, and the preferred and envisioned character included in adopted area plans (Section 33.910.030). The site is within the Storefront Commercial (CS) Zone, which is intended to:

. . . preserve and enhance older commercial areas that have a storefront character. The zone intends that new development in these areas will be compatible with this desired character. The zone allows a full range of retail, service and business uses with a local and regional market area. Industrial uses are allowed but are limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. The desired character includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

The existing building on the site was originally constructed in 1909 as a single-dwelling house. A few years ago, it was renovated and converted to a duplex by the current property owner. Presently, the property owner would like to use it as a vacation rental, which is classified as a Retail Sales and Service use. The renovation and reuse of the building preserves the character of the commercial area. Converting from a residential to a retail service use is consistent with the CS Zone. The building is located close to the street and has a direct pedestrian path leading to the front entry. All existing vehicle area has been removed from the site and the adjacent sidewalk and curb have been reconstructed for the entire length of the site's street frontage. The applicant has installed two long-term and two short-term bicycle parking spaces in compliance with the new Retail Sales and Service use. These are desirable and important features for pedestrian-oriented streets such as NE Alberta. Additionally, the front façade of the duplex has a large window and the entry is visible from the city sidewalk. 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.

Findings: The applicant has requested only one Adjustment. Therefore, this approval criterion is not applicable.

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

Findings: City designated scenic resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by boundaries of historic and conservation districts. There are no scenic or historic resources present on the site. Therefore, this criterion is not applicable.

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

Findings: This criterion will be met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resources and resource value as is practical.

Findings: Environmental overlay zones are designated on the Official Zoning Map with either a lower case "p" (Environmental Protection) or "c" (Environmental Conservation). Because the site does not contain environmental overlay zones, this criterion is not applicable.

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 proposed Adjustment to reduce the minimum width of the on-site pedestrian path by one foot will have minimal impact. The building and site is well-maintained and the design and materials of the pedestrian path make a positive contribution to NE Alberta Street. Most significant is the closure of the existing driveway, effectively removing all vehicle area from the site. This change increases pedestrian safety (no vehicles will cross the sidewalk to enter or exit the site) and creates additional outdoor area for guests, further enhancing the pedestrian environment. The proposal meets the applicable approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the on-site pedestrian connection width from six feet to five feet for the existing stairs and the on-site entry fence opening, per the approved plan, Exhibit C-1, signed and dated November 10, 2015.

Staff Planner: Marguerite Feuersanger

Decision rendered by:  **on November 10, 2015.**

By authority of the Director of the Bureau of Development Services

Decision mailed: November 13, 2015

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 May 5, 2015, and was determined to be complete on **August 6, 2015**.

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 May 5, 2015.

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.

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 Monday, November 30, 2015**, 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 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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.

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 **December 1, 2015 – (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:

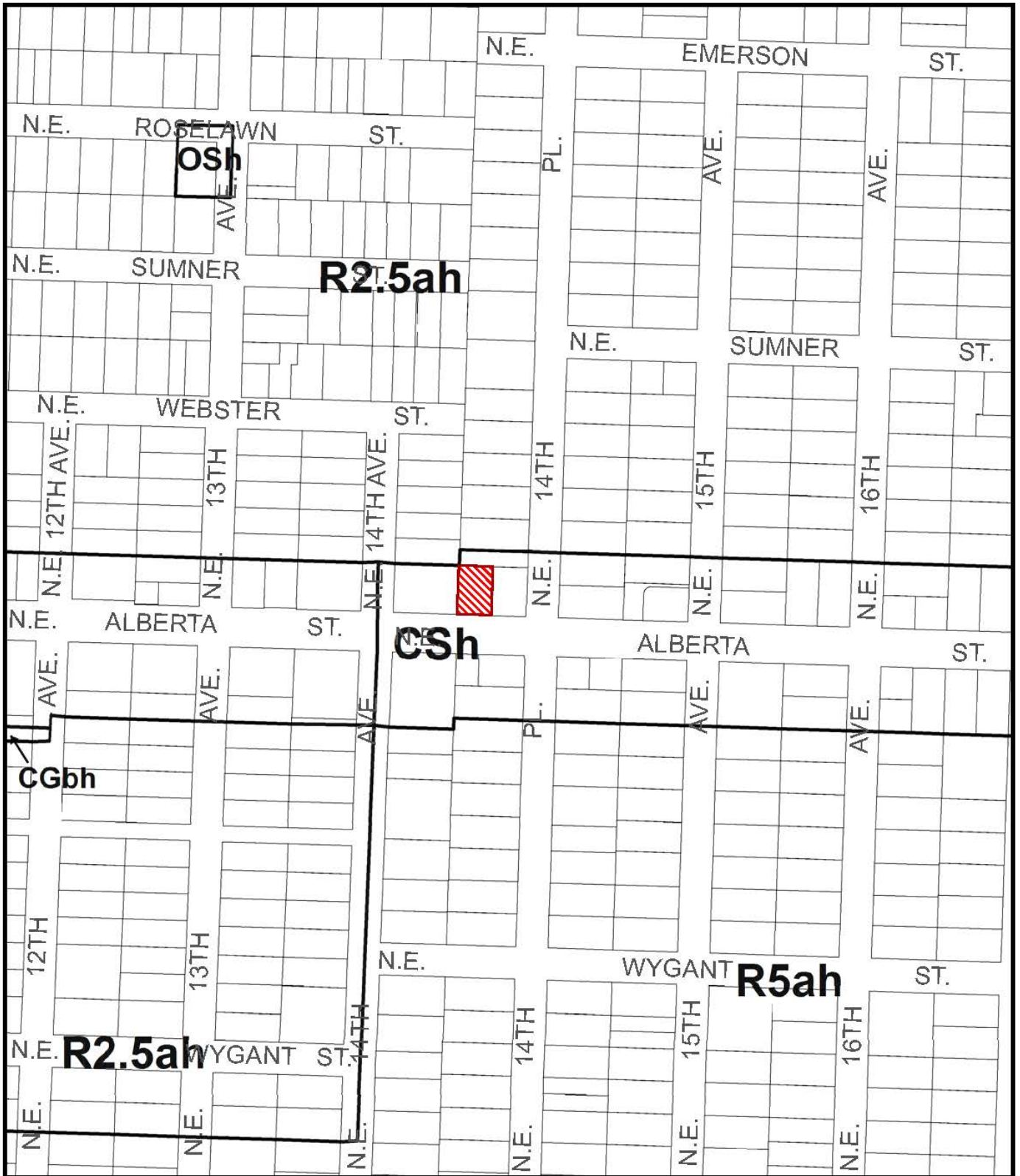
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement (revised)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Site Development Review Section of BDS
 - 5. Life Safety Plans Examiner of BDS
 - 6. Fire Bureau
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Original Applicant's Statement (old)

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

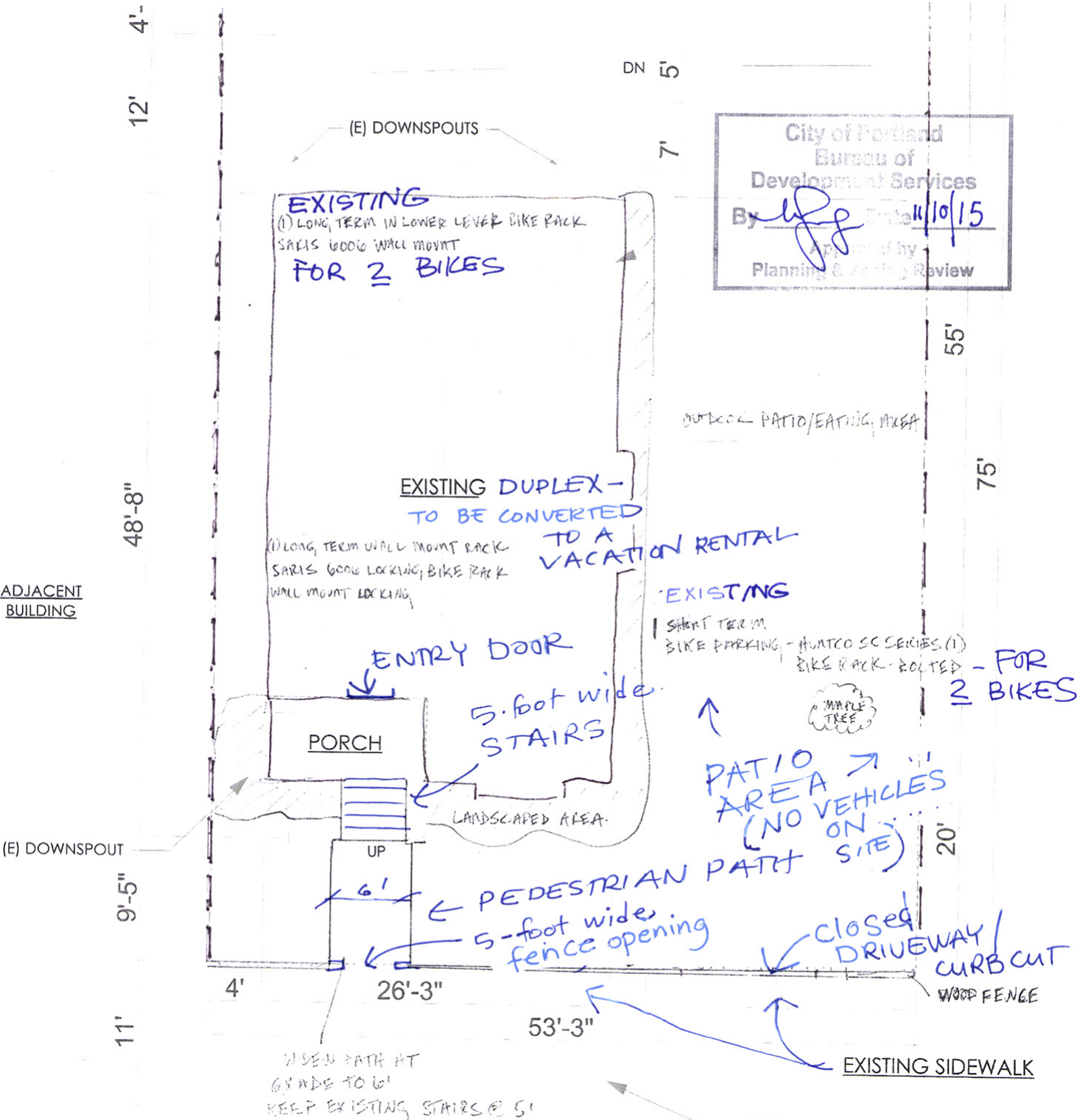


Site



NORTH

File No. LU 15-164969 AD
 1/4 Section 2532
 Scale 1 inch = 200 feet
 State_Id 1N1E23AB 25600
 Exhibit B (May 07, 2015)



City of Portland
Bureau of
Development Services
By *[Signature]* Date 11/10/15
Approved by
Planning & Zoning Review

EXHIBIT C-1
15.164969 AD

EXISTING CONDITIONS

SITE PLAN
SCALE: 1/8" = 1'-0"

8/4/15