



City of Portland, Oregon
Bureau of Development Services
Land Use Services

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: March 18, 2009
To: Interested Person
From: Dave Skilton, Land Use Services (503-823-0660)
dave.skilton@ci.portland.or.us

**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 this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

**CASE FILE NUMBER: LU 09-106419 HDZ - CANOPY REMOVAL,
AWNING ADDITION**

GENERAL INFORMATION

Applicant: Jessica B. Burke, Tenant
3368 N. Farragut Street
Portland, OR 97217

Denver Properties, LLC, Owner
7509 N. Edgewater Drive
Portland, OR 97203

Representative: Dana Moore, Architect (503-235-9400)
Emerick Architects
208 SW 1st Avenue, Suite 320
Portland OR 97204

Site Address: 8202-8208 N Denver Avenue

Legal Description: BLOCK 3 LOT 33&34 37&38 TL 5100, KENTON
Tax Account No.: R445901140
State ID No.: 1N1E09DA 05100
Quarter Section: 2228

Neighborhood: Kenton, contact Steve Rupert at 503-317-6573
Business District: Kenton Business Association, contact Echo Leighton at 503-285-7234.
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099

Plan District: Kenton
Other Designations: Portland City Landmark, listed on August 1, 1989. Contributing Resource in the Kenton Commercial Historic District, listed in the National Register of Historic Places on September 3, 2001.

Zoning: CSd, Storefront Commercial with Design Overlay

Case Type: HDZ, Historic Design Review

Procedure: Type II, an administrative decision with appeal to the Historic Landmarks Commission.

Proposal:

The applicant is seeking approval to remove a deteriorated, utilitarian, metal canopy/fire escape structure attached at the band between the storefront and the transoms, and wrapping the southwest corner of the subject building. The metal canopy dates to 1937. The applicant also proposes to install shed-roofed, fabric awnings with loose skirts and closed ends, over the transom windows within the three storefront bays currently sheltered by the canopy structure. Eight small, low voltage down-lights, with concealed wiring, are proposed at equal spacing under the awnings. Areas of the first floor sub-cornice damaged by the installation of the canopy system will be repaired in kind. Historic Design Review is required pursuant to the property's listing as a Portland City Landmark on August 1, 1989 and as a contributing resource in the Kenton Commercial Historic District on September 3, 2001.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- 33.846 Historic Design Review
- 33.846.060 G Other Approval Criteria

ANALYSIS

Site and Vicinity: The Dupey Block is both a locally designated Historic Landmark and contributing resource within the Kenton Commercial Historic District. It is significant as a good example of the early Twentieth Century use of “architectural cast stone” as a building material considered economical and yet appropriate for mid-sized commercial structures. This material was used extensively in the early development of the community of Kenton, which was eventually subsumed into the City of Portland.

The site is within a designated Pedestrian District, and N. Denver is classified in the City of Portland Transportation System Plan as a Community Main Street. Pedestrian Districts are intended to give priority to pedestrian access in areas where high levels of pedestrian activity exist or are planned, including the Central City, Gateway regional center, town centers, and station communities. Community Main Streets are designed to accommodate motor vehicle traffic, with special features to facilitate public transportation, bicycles, and pedestrians.

The Kenton Plan District fosters a vital retail corridor along Denver Avenue, ensures that the design of new buildings, and modifications to existing buildings, are compatible with the historic character of the area as well as ensures a pleasant, safe and efficient environment for pedestrians.

Zoning: The Storefront Commercial (CS) zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone allows a full range of retail, service, and business uses with a local and regional market area. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

The Design (d) overlay zone promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development are subject to design review.

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

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **February 17, 2009**. The following Bureaus have responded with no issues or concerns:

- *Water Bureau*

The *Bureau of Transportation Engineering* responded with no objections to the proposal provided that IBC standards are met for encroachments in the public right-of-way.

The *Portland Fire Bureau* has reviewed the proposal and responded with preliminary information regarding current Fire Code requirements. The applicant is required to obtain a building permit for the proposed work and the Fire Bureau will need to review the permit and approve of the proposed work, including the removal of the existing fire escape and the proposed canopies, at that time. Exhibit E.1 contains staff contact and additional information.

The *Life Safety Section of the Bureau of Development Services* has responded with preliminary Building Code information that could affect the future permit review process. A complete Life Safety plan review will be provided at the time of mechanical permit submittal. Exhibit E.2 contains staff contact and additional information.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 17, 2009. No written comments in response to the proposal have been received from the neighborhood association or from notified property owners.

ZONING CODE APPROVAL CRITERIA

Chapter 33.846, Historic Reviews

Purpose of Historic Design Review

Historic Design Review ensures the conservation and enhancement of the special characteristics of historic resources.

Historic Design Review Approval Criteria

Requests for historic design review will be approved if the review body finds the applicant has shown that all of the approval criteria have been met.

Findings: The site is a designated Historic Landmark; therefore, the proposal requires historic design review approval. The relevant approval criteria are listed in 33.846.060 G.

Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.

G. Other Approval Criteria

1. Historic character. The historic character of the property will be retained and preserved. Removal of historic materials or alteration of features and spaces that contribute to the property's historic significance will be avoided.

3. Historic changes. Most properties change over time. Those changes that have acquired historic significance will be preserved.

Findings for Criteria 1 And 3: The existing steel canopy and fire escape proposed for removal dates from 1937, within the 1909-1949 period of significance of the Kenton Commercial Historic District. However, its utilitarian materials and construction, lack of detail, clumsy positioning, and unsympathetic attachment to the building make it incompatible with the more substantial and ornate character of the resource. Removal is justified based on this non-contributing character. *This guideline is therefore met.*

2. Record of its time. The historic resource will remain a physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings will be avoided.

Findings: The addition of fabric awnings is justified by photographic evidence of there having been awnings on the building during the historic period. *This guideline is therefore met.*

4. Historic features. Generally, deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement, the new feature will match the old in design, color, texture, and other visual qualities and, where practical, in materials. Replacement of missing features must be substantiated by documentary, physical, or pictorial evidence.

Findings: The proposal is for the in-kind repair of the sheet metal sub-cornice where it has been damaged by the insensitive installation of the metal canopy. *This guideline is therefore met.*

8. Architectural compatibility. New additions, exterior alterations, or related new construction will be compatible with the resource's massing, size, scale, and architectural features. When retrofitting buildings or sites to improve accessibility for persons with disabilities, design solutions will not compromise the architectural integrity of the historic resource.

Findings: The addition of fabric, shed-roofed awnings is compatible with the historic character of the building because they are based on photographic evidence that awnings of a similar scale and configuration were historically in place on the building. *This guideline is therefore met.*

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

Removal of the non-contributing steel canopy and fire escape and installation of shed-roofed fabric awnings within the storefront bays will recover important traditional characteristics that support the overall quality of the historic district. The proposal therefore merits approval.

ADMINISTRATIVE DECISION

Approval of:

- removal of a non-contributing steel canopy/fire escape structure, and
- installation of new shed-roofed fabric awnings in the storefront bays; and
- installation of a low-voltage down-light, centered on each the storefront and just below the transoms.

Approval is per the approved drawings, Exhibits C-1 through C-7, signed and dated March 12, 2009, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use

review as indicated in Exhibits C-1 through C-7. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-106419 HDZ. No field changes allowed."

Staff Planner: Dave Skilton

Decision rendered by: Dave Skilton **on March 13, 2009.**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 18, 2009

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 4, 2009, and was determined to be complete on **February 11, 2009.**

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 4, 2009.

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 Landmarks Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on April 1, 2009** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth 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. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 contact the receptionist at 503-823-7967 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 Landmarks Commission 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 Landmarks Commission 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 **April 2, 2009 – (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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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:

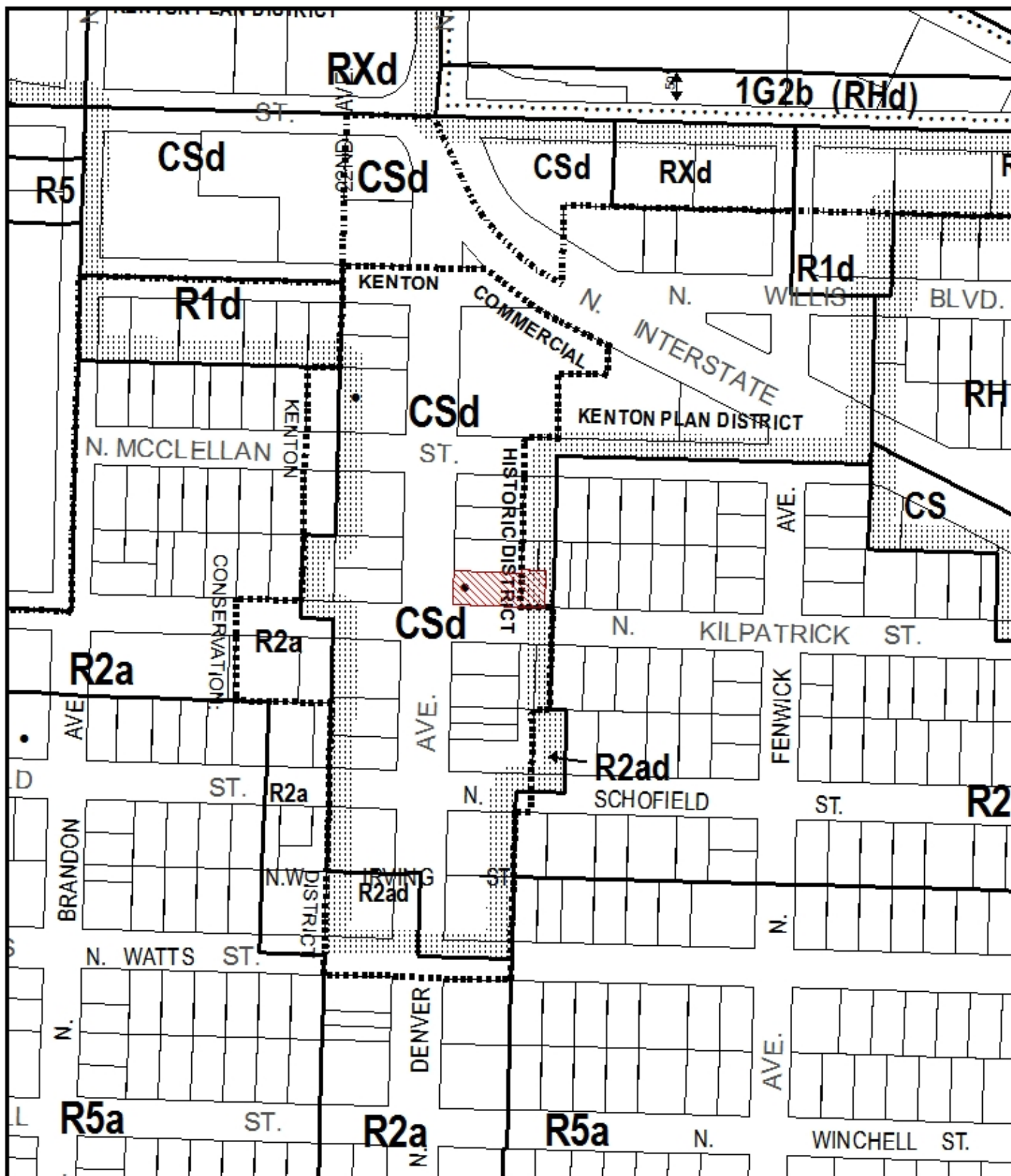
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Demolition, Site Plan
 - 2. Demolition, South and West Elevations (attached)
 - 3. Demolition, East Elevation
 - 4. Site Plan (attached)
 - 5. West and South Elevations (attached)
 - 6. Canopy Section (attached)
 - 7. Lighting Fixture Information
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Fire Bureau
 - 3. Life Safety Section of BDS
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Case Communication Log

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).



ZONING



Site



Historic Landmark



NORTH

This site lies within the:
KENTON PLAN DISTRICT

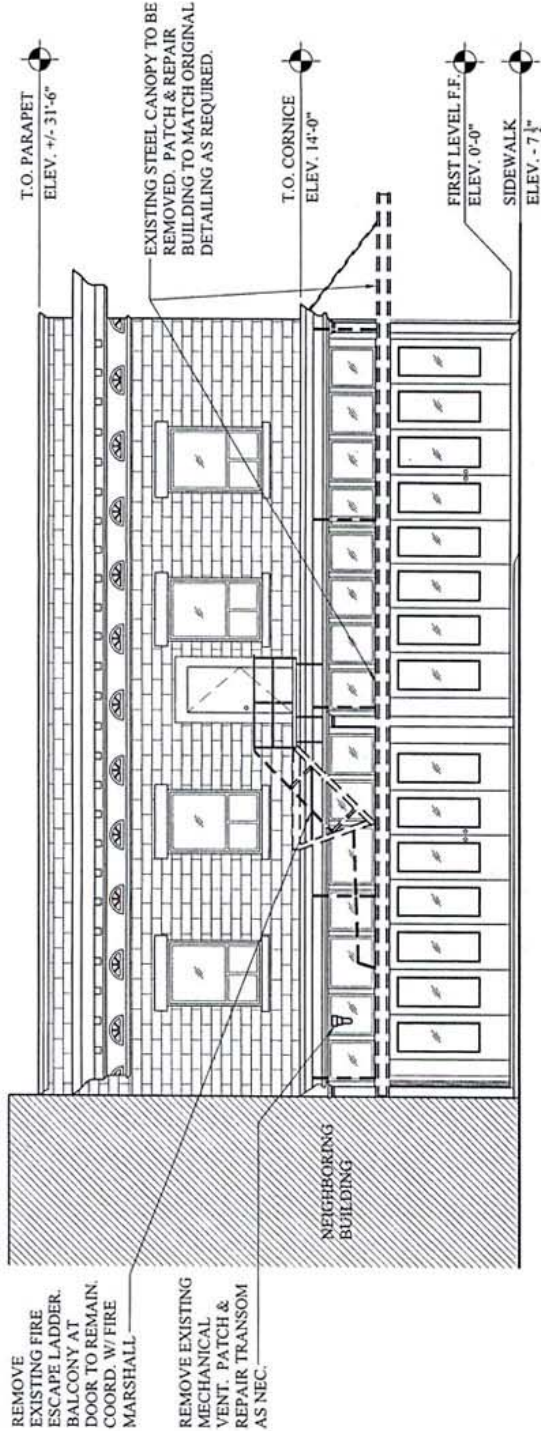
File No. LU 09-106419 HDZ

1/4 Section 2228

Scale 1 inch = 200 feet

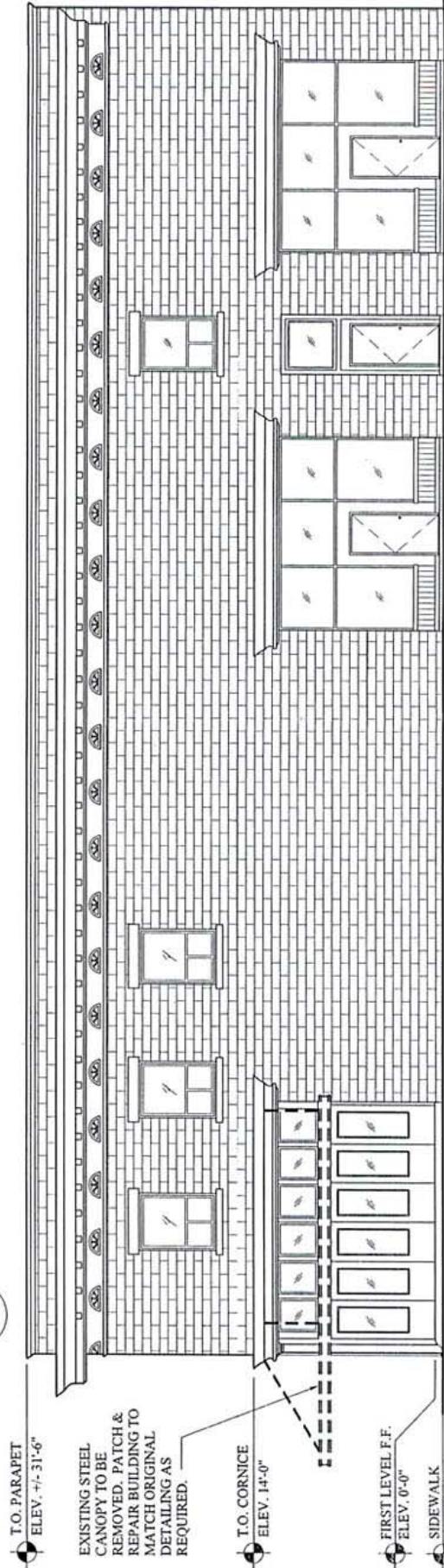
State_Id 1N1E09DA 5100

Exhibit B (Feb 06,2009)



1 WEST DEMO ELEVATION

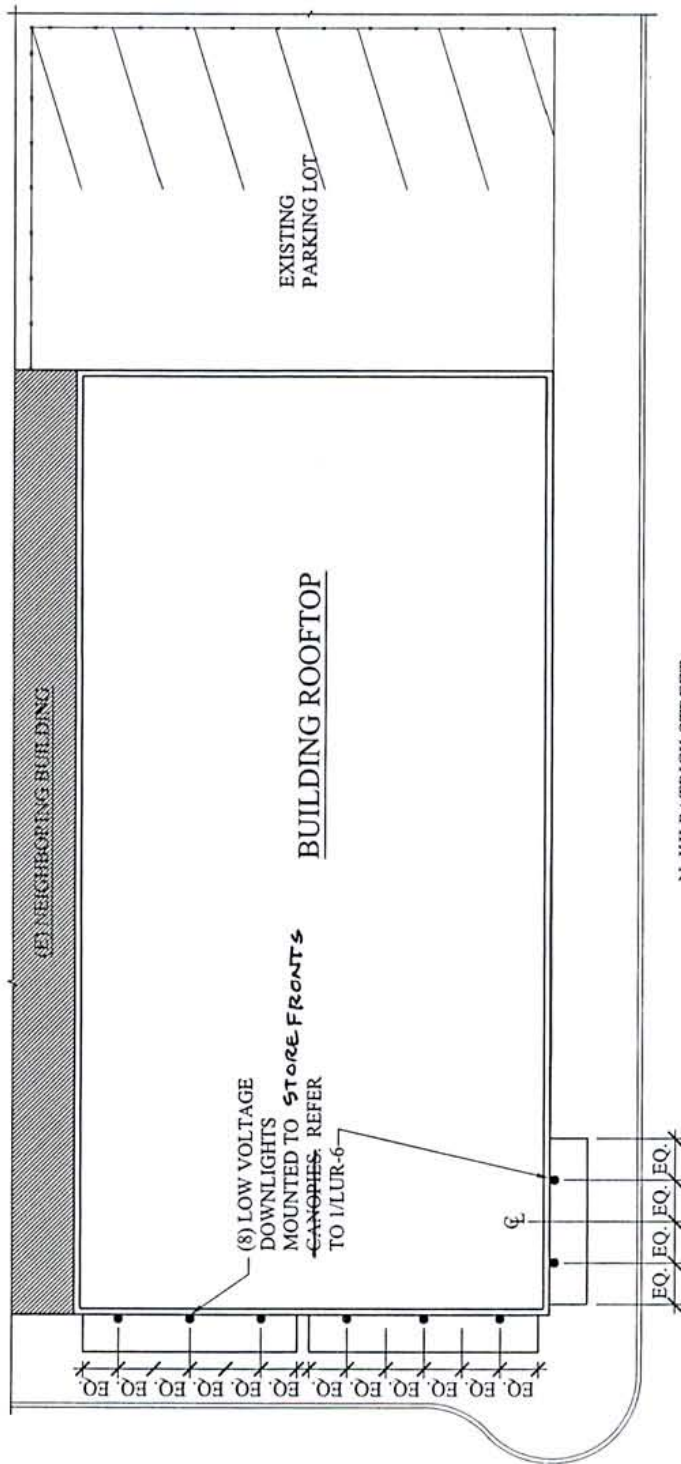
SCALE: 1/8" = 1'-0"



2 SOUTH DEMO ELEVATION

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

Approved
City of Portland - Bureau of Development Services
Planner Dave Fulton Date 3.12.9
* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.



1 SITE PLAN
SCALE: 1/16" = 1'-0"

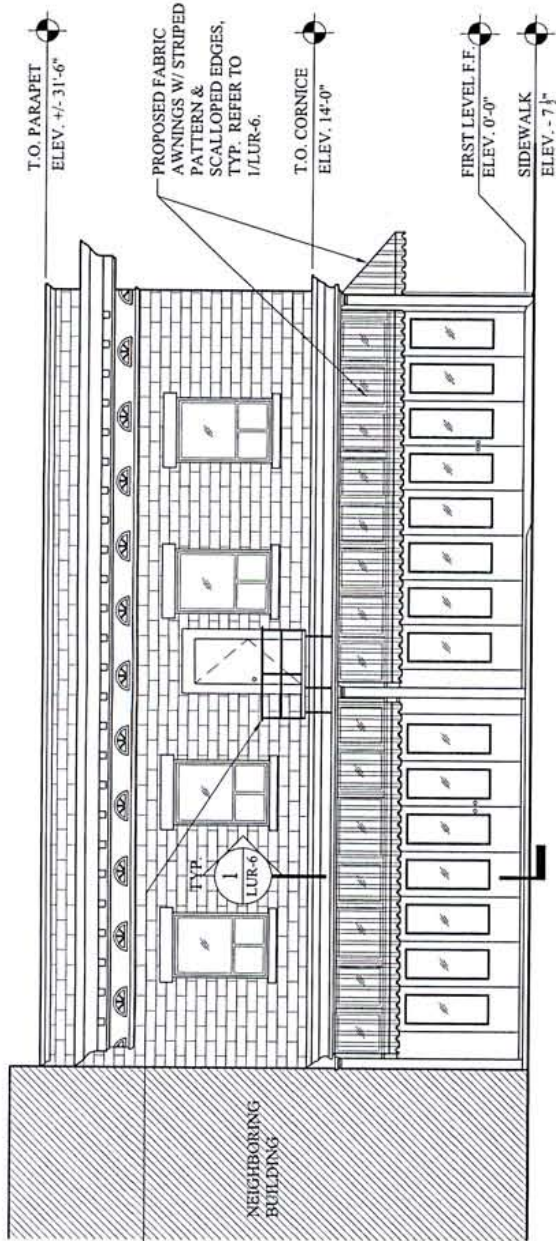
N. DENVER AVENUE



Approved
City of Portland - Bureau of Development Services
Planner Dave Butler Date 3.12.9
* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

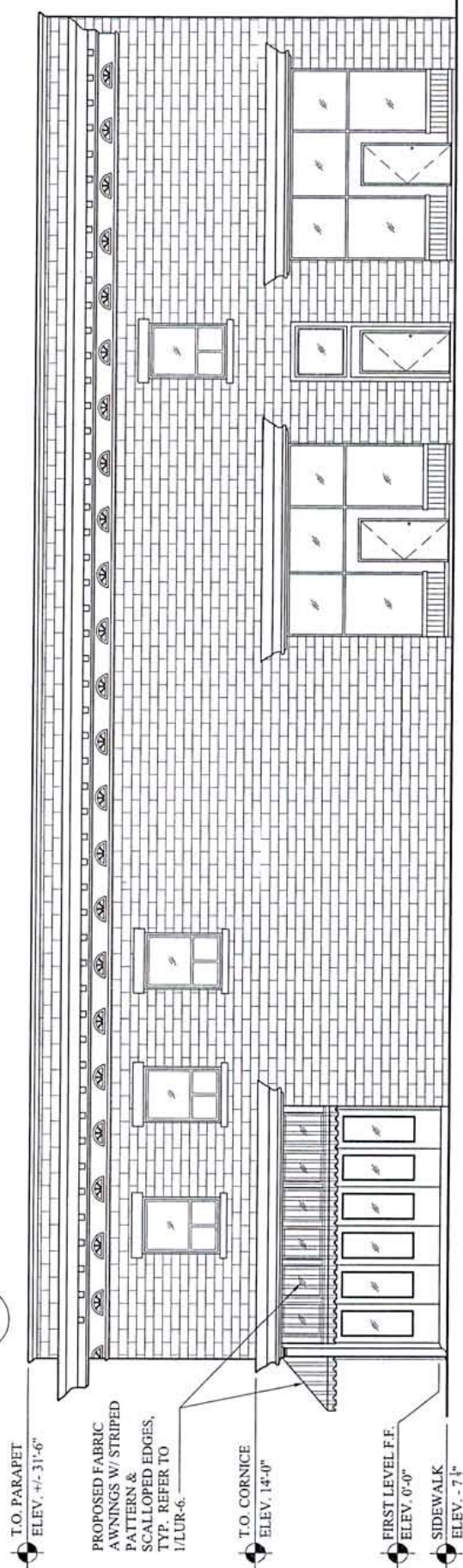
LU09-106419 HDZ EXHIBIT C-4

Approved
City of Portland - Bureau of Development Services
Planner: *Doreen* Date: 3-12-9
* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.



1 WEST ELEVATION

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

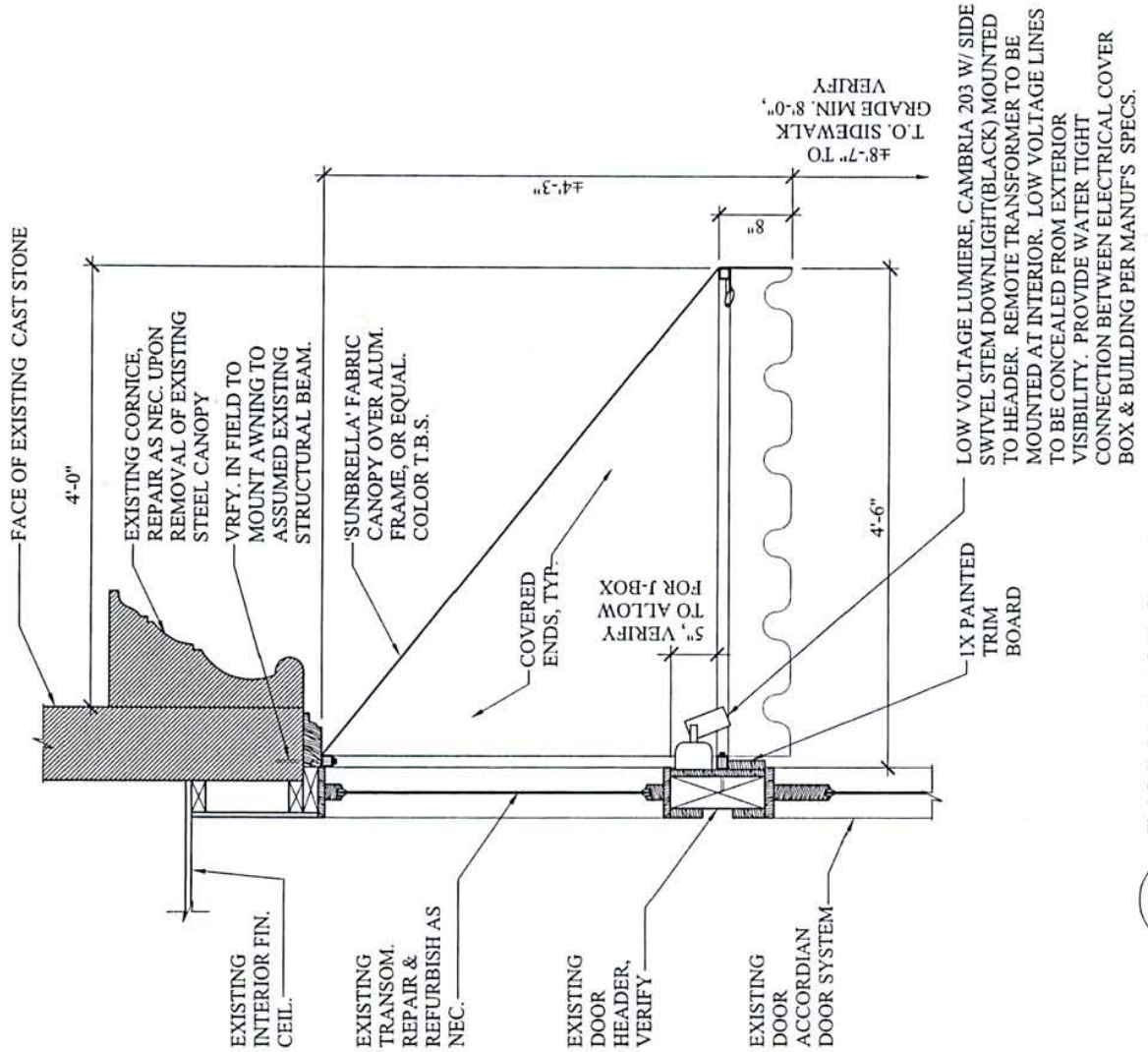


2 SOUTH ELEVATION

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

NOTE:

AWNING CONNECTIONS & MOUNTING POINTS INDICATED ON DRAWINGS ARE ASSUMED BASED ON THE INFORMATION AVAILABLE. CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS ON DRAWINGS WITH ACTUAL FIELD DIMENSIONS AND CONDITIONS; NOTIFY ARCHITECT IMMEDIATELY OF ANY DISCREPANCIES OR IF ACTUAL CONDITIONS DIFFER FROM THOSE INDICATED IN THE DRAWINGS.



CANOPY SECTION

1

SCALE: 3/4" = 1'-0"

Approved

City of Portland - Bureau of Development Services

Planner Dave Fulton Date 3-12-9

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