



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

FROM CONCEPT TO CONSTRUCTION

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Date: May 12, 2016
To: Interested Person
From: David Besley, 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 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 16-123453 AD

GENERAL INFORMATION

Applicant: Shem Harding
Deca Architecture, Inc
935 SE Alder St
Portland, OR 97214

Owner: Prescott Morris LLC
PO Box 18056
Portland, OR 97218-0056

Site Address: 15023 SE STARK ST

Legal Description: LOT 254 EXC W 77.5' OF S 98.32' EXC PT IN ST, ASCOT AC
Tax Account No.: R041808130
State ID No.: 1N2E36CD 03100
Quarter Section: 3045

Neighborhood: Glenfair, contact Graham Wright at 503-887-7028
Business District: Gateway Area Business Association, contact Fred Sanchez at 503-256-3910
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550

Plan District: East Corridor

Zoning: RHd (High Density Residential with a Design Overlay Zone)

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

Proposal:

The applicant is proposing to construct a 3-story, 40-unit apartment building with a surface parking lot. The Portland Zoning Code requires that structures in the RH zone be set back a minimum of 12-feet from side lot lines when the area of the plane of the building wall is between 2,801 and 3,100 square feet (Section 33.120.220, Table 120-4). Portions of the apartment building are proposed to be 8.5 feet from the side (west) property line and the plane of this façade is approximately 3,050 square feet; therefore, an Adjustment is required to reduce the side setback from 12 feet to 8.5 feet. While the majority of this façade will be 8.5 feet from the side setback, there will be several articulated walls that are farther back from the setback as shown on the attached site plan close-up.

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 34,307 square foot site is located at the northwest corner of the intersection of SE Stark Street and SE 151st Avenue. The site is relatively flat and is currently developed with a 1,605 square foot single family residence and accessory sheds. The surrounding vicinity is developed with a mix of single-dwelling residences, multi-dwelling residences, and commercial buildings. The site is served by TriMet bus 20 and is approximately 800 feet from the MAX light rail.

Zoning: The multi-dwelling zones are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing. The RH zone is a high density multi-dwelling zone. Density is not regulated by a maximum number of units per acre. Rather, the maximum size of buildings and intensity of use is regulated by floor area ratio (FAR) limits and other site development standards. Generally the density will range from 80 to 125 units per acre. Allowed housing is characterized by medium to high height and a relatively high percentage of building coverage. The major types of new housing development will be low, medium, and high-rise apartments and condominiums. Generally, RH zones will be well served by transit facilities or be near areas with supportive commercial services. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. The "d" zone overlay (Design Overlay Zone) is not impacted by the Adjustment proposal because the Community Design Standards are being used (Sections 33.218.110 and 33.218.140).

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed April 6, 2016. The following bureaus/agencies have responded with the following information:

- The Water Bureau responded with no concerns and provided information on water service (Exhibit E-1);
- The Fire Bureau responded with no concerns and provided information on the Fire Code (Exhibit E-2);
- The Life Safety Section of the Bureau of Development Services (BDS) responded with no concerns and provided Building Code information (Exhibit E-3);
- The Site Development Section of BDS responded with no concerns and noted that a permit will be needed to demolish the existing structure and decommission the old cesspool on site before a new structure can be built (Exhibit E-4);
- The Bureau of Environmental Services Source Control responded with no concerns and noted that requirements of the Stormwater Management Manual will need to be addressed (Exhibit E-5); and

- The Bureau of Environmental Services responded with no concerns and provided information on sanitary service and stormwater management (Exhibit E-6).

The following Bureau has responded with no concerns:

- The Portland Bureau of Transportation.

Neighborhood Review: 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; and

Findings: The applicant has requested to construct a new 3-story apartment building which requires an Adjustment to reduce the side (west) setback from 12 feet to 8.5 feet. The purpose for the setback regulations is as follows:

33.120.220 Setbacks

The building setback regulations serve several purposes:

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of multi-dwelling development in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity;*
- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

While the majority of this façade will be 8.5 feet from the side setback, there will be several articulated walls that are farther back from the setback, which will help maintain light, air, and separation, and promote a reasonable physical relationship between residences. The articulation includes changes in material and color, which will add visual interest to the building and make it more inviting to pedestrians and transit users. The applicant is proposing to plant one small tree per 10 linear feet along the western property line where the Adjustment is requested, as well as a 6-foot high fully sight obscuring fence, which will promote privacy.

Many of the surrounding properties include development that encroaches into side setbacks. The reduced side setback will therefore be compatible with and reflective of this neighborhood. The front façade of the building (facing SE Stark Street) is within the maximum transit street setback and will create an environment that is inviting to pedestrians and transit users.

The Fire Bureau has reviewed the request for reduced setbacks, and offered no concerns with access for fire fighting; separation for fire protection will be addressed through the Building Code at the time of permit review. The Portland Bureau of Transportation has no concerns regarding the proposed Adjustment, which does not include parking in front of a garage door.

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: As noted under the Zoning section above, the site is zoned RH, which is a high density multi-dwelling zone and the major types of new housing development include low, medium, and high-rise apartments and condominiums. The adjacent properties to the west are also zoned RH. Given the allowed density and height in this area, the proposed development will reflect the general building scale and placement of houses in this neighborhood. The applicant is proposing to plant one small tree per 10 linear feet along the western property line where the Adjustment is requested, which will promote privacy and livability. The articulated walls on the west façade include changes in material and color, which will add visual interest and result in a more attractive building than a flat wall that meets the setbacks.

As noted above, many of the surrounding properties include development that encroaches into setbacks. This proposal is therefore consistent with the development pattern in the area and will not significantly detract from the livability or appearance of the area.

This criterion is met.

- C.** If more than one Adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one Adjustment is proposed; therefore, this criterion is not applicable.

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

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. There are no such 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: As noted above, while the majority of the western façade will be 8.5 feet from the side setback, there will be several articulated walls that are farther back from the setback, which will help mitigate impacts associated with the reduced setback including light, air, and separation. The articulations use different materials, styles, and colors which will add visual interest to the building, making it more inviting to pedestrians and transit users. Impacts are further mitigated by the 36-foot height of the building, considering that this zone allows a maximum height of 55 feet (given that Community Design Standards are being used via Section 33.218.110 and 33.218.140).

Landscape requirements (L1 – general landscaping, Section 33.248) includes a minimum of one small tree per 15 linear feet, but, as noted above, the applicant is proposing to add additional mitigation by planting more trees (one small tree per 10 linear feet) along the western property line where the Adjustment is requested. This further mitigates impacts to privacy. A condition is required that the landscaping includes one small tree per 10 linear feet along the western property line (as shown in Exhibit C.1).

This criterion is met.

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

Findings: Environmental overlay zones are designated on the Official Zoning Map with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, 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 applicant has requested to construct a new 3-story apartment building which requires an Adjustment to reduce the side (west) setback from 12 feet to 8.5 feet. While the majority of this façade will be 8.5 feet from the side setback, there will be several articulated walls that are farther back from the setback, which will help maintain light, air, and separation, and promote a reasonable physical relationship between residences. The articulation includes changes in material and color, which will add visual appeal to the building and make it more inviting to pedestrians. Landscape requirements includes a minimum of one small tree per 15 linear feet, but, the applicant is proposing to add additional mitigation by planting more trees (one small tree per 10 linear feet) along the western property line where the Adjustment is requested; this will mitigate for privacy impacts. Impacts are further mitigated by the 36-foot height of the building, considering that this zone allows a maximum height of 55 feet

Many of the surrounding properties include development that encroaches into side setbacks. The reduced side setback will therefore be compatible with this neighborhood. The front façade of the building (facing SE Stark Street) is within the maximum transit street setback and will create an environment that is inviting to pedestrians and transit users. The proposal meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the side (west) setback from 12 feet to 8.5 feet (Section 33.120.220, Table 120-4) to construct a new 3-story apartment building, per the approved site plans, Exhibits C.1 through C.3, signed and dated May 5, 2016, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File # LU 16-123453 AD."
- B. The landscaping must include one small tree per 10 linear feet along the western property line where the Adjustment is requested (as shown in Exhibit C.1).

Staff Planner: David Besley



Decision rendered by: _____ **on May 5, 2016.**

By authority of the Director of the Bureau of Development Services

Decision mailed: May 12, 2016

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 23, 2016, and was determined to be complete on March 29, 2016.

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 23, 2016.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: July 27, 2016.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on May 26, 2016** 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 **May 27, 2016– (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:

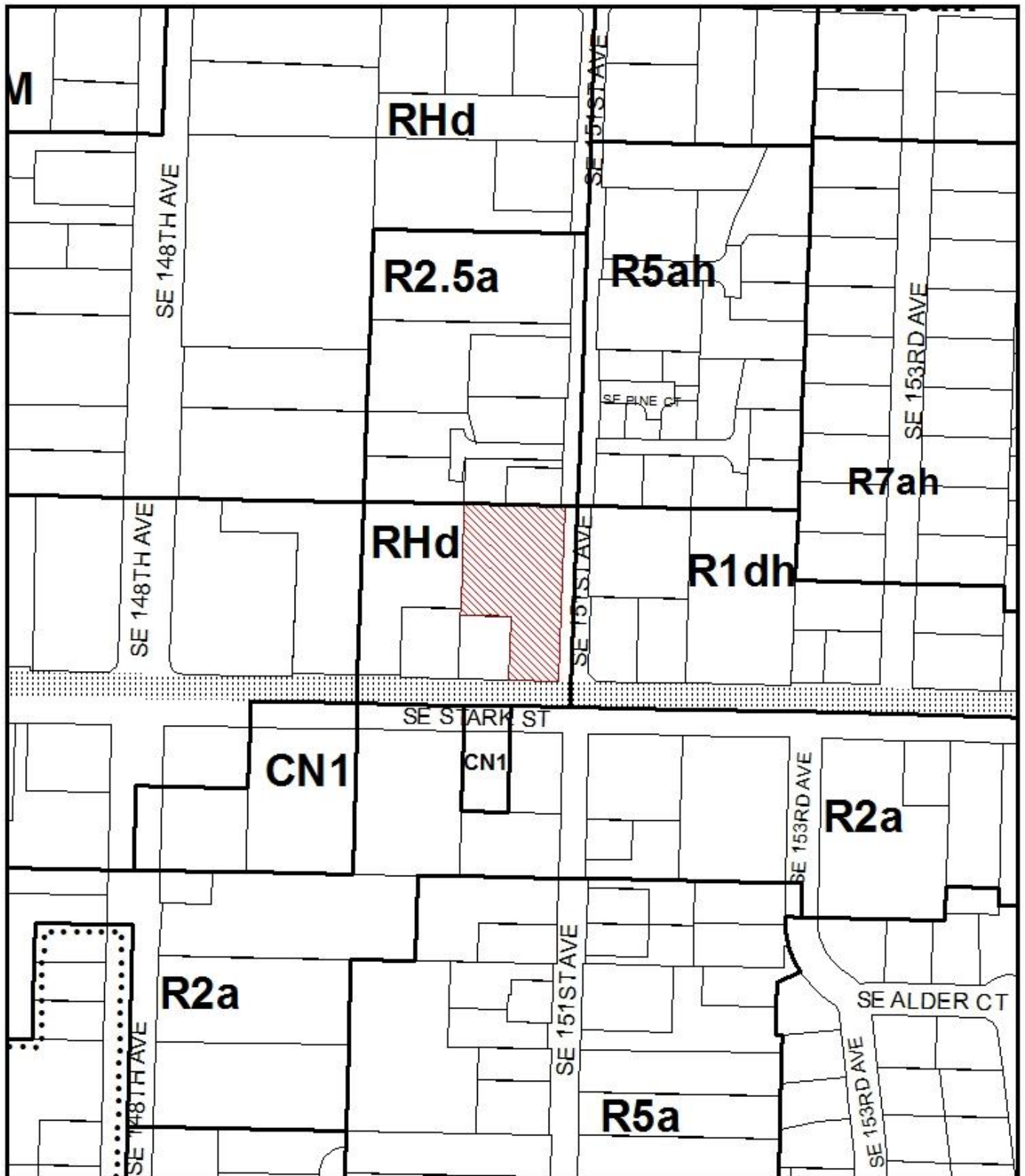
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Site Plan Close-Up + Side/West Elevation (attached)
 - 3. Front Rendering (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Fire Bureau
 - 3. The Life Safety Section of BDS
 - 4. Site Development Review Section of BDS
 - 5. Bureau of Environmental Services - Source Control
 - 6. Bureau of Environmental Services
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application Form and Receipt
 - 2. Incomplete letter from staff to applicant, sent March 11, 2016

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

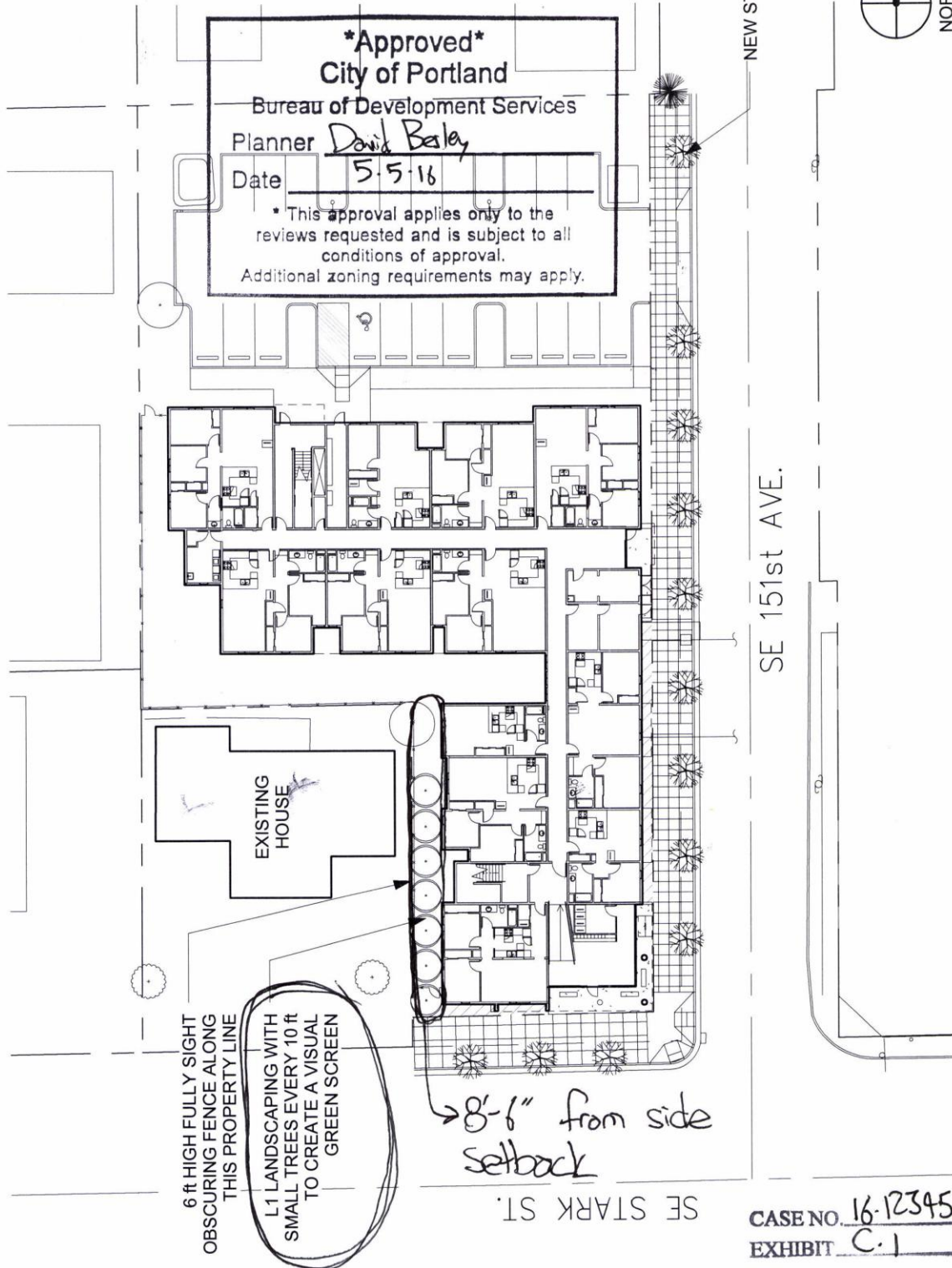


This site lies within the:
EAST CORRIDOR PLAN DISTRICT

File No. LU 16-123453 AD
 1/4 Section 3045
 Scale 1 inch = 200 feet
 State_Id 1N2E36CD 3100
 Exhibit B (Feb 24, 2016)

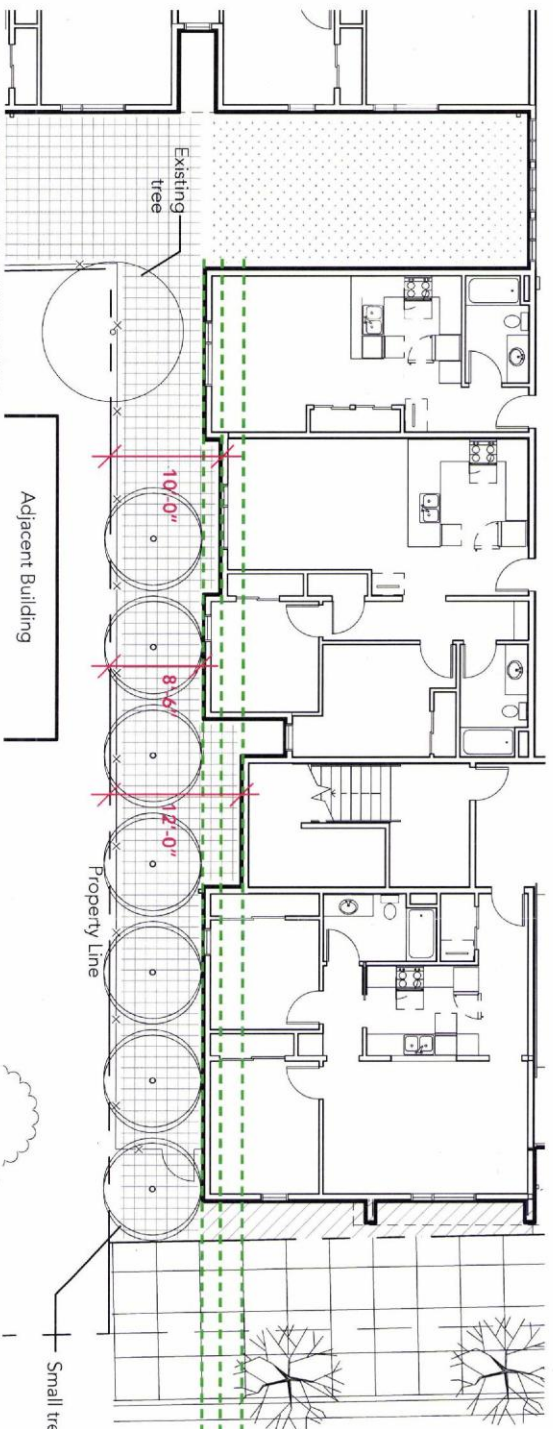
3/28/16

Adjustment requested to reduce side (West)
setback from min 12' to 8'-6"



Approved March 28, 2016
 City of Portland
 Bureau of Development Services
 Planner David Kotley
 Date 5-5-16

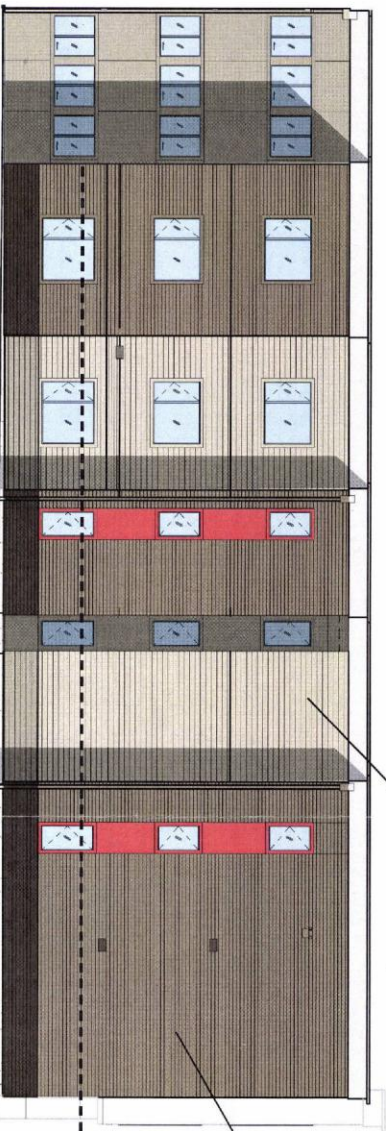
* This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.



	Distance from PL	Wall Area
Wall line	12'-0"	2,941 sf
Wall line	10'-0"	2,450 sf
Wall line	8'-6"	1,950 sf

SITE PLAN EXCERPT

ELEVATION - WEST



- Fiber cement plank cladding - wider exposure, color change
- Fiber cement plank cladding - narrow exposure
- Line of 6 ft sight obscuring privacy fence in front

SCALE: 3/32" = 1'-0"



ALEXIS APARTMENTS ADJUSTMENT PROPOSAL

CASE NO. 16-153453 AD
 EXHIBIT C-2



PROPOSED DEVELOPMENT - RENDERING

Approved
City of Portland
 Bureau of Development Services
 Planner David Berley
 Date 5-5-16

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

CASE NO. 16-123453 AD
 EXHIBIT C-3