



City of Portland
Bureau of Development Services
Land Use Services Division

1900 SW Fourth Ave. Suite 5000
Portland, Oregon 97201
Telephone: 503-823-7300
TDD: 503-823-6868
FAX: 503-823-5630
www.portlandonline.com/bds

Date: November 5, 2008
To: Interested Person
From: Sylvia Cate, Land Use Services
503-823-7771 / scate@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 08-155408 CU

GENERAL INFORMATION

Applicant: Wendy Fencsak, property owner
Fulton House Bed And Breakfast LLC
7006 SW Virginia Ave
Portland OR 97219

Site Address: 7006 SW VIRGINIA AVE

Legal Description: LOT 1 BLOCK 16, SOUTHERN PORTLAND
Tax Account No.: R780202250
State ID No.: 1S1E22BA 07800
Quarter Section: 3729
Neighborhood: South Portland NA., contact Jim Davis at 503-248-9820.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Plan District: None
Other Designations: None
Zoning: R2, Multi Dwelling Residential 2,000
Case Type: CU, Conditional Use
Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

In 2006, the applicant received a conditional use approval for a Bed & Breakfast facility utilizing up to two bedrooms for guests. The applicant now requests a conditional use approval to use up to four bedrooms for guests. The Fulton House Bed and Breakfast operations will continue to operate as before, with the owners residing in the home as their primary residence. No physical changes to the property are proposed. No employees are proposed and no commercial meetings are proposed. Bed and Breakfast facilities are allowed in residential zones when the proposal meets the approval criteria and applicable standards.

The regulations are intended to allow for a more efficient use of large, older houses in residential areas if the neighborhood character is preserved to maintain both the residential neighborhood experience and the bed and breakfast experience. These regulations enable owners to maintain large residential structures in a manner which keeps them primarily in residential uses. The proprietor can take advantage of the scale and often the architectural

and historical significance of a residence. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.

Relevant Approval Criteria:

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

- 33.815.105, Institutional and other uses in Residential Zones
- 33.212.040 and -.050, Mandatory Use-related and Site-Related standards

ANALYSIS

Bed and Breakfast facilities are defined by the Zoning Code as a facility where an individual or family resides in a home and rents bedrooms to guests. These facilities are allowed as accessory uses to a Household Living (residential) use in residential zones, subject to the regulations of PCC 33.212 (Bed and Breakfast Facilities). The regulations of PCC 33.212 limit the number of bedrooms that may be rented, the number of guests per night, the number of employees allowed, and the number and size of meetings and social gatherings allowed.

Because the applicant proposes to add two additional guest bedrooms to an existing Bed and Breakfast Facility in a residential zone, a Type II Conditional Use review is required.

Site and Vicinity: The site is a 5,000 square foot lot developed with a 4,084 square foot house built in 1900.

Zoning: The site lies within the Multi-Dwelling Residential 2,000 zone, one of several zones that implement the Comprehensive Plan Map designation for Multi-Dwelling. The R2 zone is a low density multi-dwelling zone. It allows approximately 21.8 dwelling units per acre. Density may be as high as 32 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to three story buildings, but at a slightly larger amount of building coverage than the R3 zone. The major types of new development will be duplexes, townhouses, rowhouses and garden apartments. These housing types are intended to be compatible with adjacent houses. Generally, R2 zoning will be applied near Major City Traffic Streets, Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

Land Use History: City records indicate one prior land use review for this site, case file 06-144034 CU, which approved the Fulton House Bed and Breakfast utilizing up to two bedrooms for guests.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed August 26, 2008. The following Bureaus have responded with no issues or concerns:

- Water Bureau
- Fire Bureau
- Bureau of Environmental Services
- Site Development Section of BDS

- Bureau of Transportation Engineering responded with extensive comments and analysis, which are incorporated into the findings, below, in this decision. Portland Transportation concludes that the proposed expansion of the bed and breakfast can satisfy all applicable transportation related approval criteria, provided that the transportation demand management strategies currently utilized by the Fulton House Bed and Breakfast continue to be implemented.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on August 26, 2008. Twelve written responses have been received from notified property owners in response to the proposal. Ten of the letters express support of the proposal.

Two letters from notified neighbors were received expressing concerns and opposition to the proposal. Both letters raised similar concerns, which include: insufficient on-street parking in the immediate area, with associated conflicts between bed and breakfast guest parking and adjacent neighbors; the concern that the owners of the Bed and Breakfast have installed an anti dog barking device which adversely impacts neighborhood dogs; noise associated with late night outdoor events at the Bed and Breakfast; and interactions between the applicants and some neighbors that impact the livability in the immediate area.

Staff Comment: The concern regarding impacts to on-street parking supply directly relate to approval criteria for this request, and are addressed below, in the findings of this decision. Once this issue was raised concerning the impact on available on-street parking, the applicant placed the application on hold and coordinated with Portland Transportation to determine an appropriate scope and scale of an on-street parking survey via a licensed Transportation Engineering firm. Additional information, including the parking survey was submitted to the City for further evaluation and review. The results of the on-street parking survey are also discussed below in the findings of this decision.

As part of this review, City planning staff is not able to determine the status of the alleged anti-barking device. However, the following is general information about such devices from the City's Noise Officer regarding such devices: The City's Noise Code [Title 18] includes notable sound level limits based on the pitch of the sound. Previous experience by the City's Noise Officer in investigating these devices has resulted in determinations that these devices are in excess of the noise levels they are permitted to operate at for their specific pitch. If a neighbor has concerns about such devices, they can call the City's Noise Hotline at 503 823-7350 to request an investigation.

Information provided by the applicant's attorney demonstrates that outdoor events held at the Fulton House have been in compliance with the Bed and Breakfast regulations. If a neighbor has concerns regarding such issues, they can call the City's Code Compliance Hotline at 503 823-7305 to request an investigation.

The perception of the quality and intent of interactions and conversations between applicants and neighbors are issues that are not relevant to the applicable approval criteria of a land use review and therefore cannot be addressed by this decision or the findings below.

ZONING CODE APPROVAL CRITERIA

33.815.010 Purpose of Conditional Uses

Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

33.815.105 Institutional and Other Uses in R Zones

These approval criteria apply to all conditional uses in R zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in a residential zone that maintain or do not significantly conflict with the appearance and function of residential areas. The approval criteria are:

- A. Proportion of Household Living uses.** The overall residential appearance and function of the area will not be significantly lessened due to the increased proportion of uses not in the Household Living category in the residential area. Consideration includes the

proposal by itself and in combination with other uses in the area not in the Household Living category and is specifically based on:

1. The number, size, and location of other uses not in the Household Living category in the residential area; and
2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

Findings: For purposes of evaluating the proposal against this criterion, the residential area comprises 200 feet in all directions from the subject site. This area is roughly bounded by SW California Street to the north, the edge of the Commercial zoning that runs along SW Macadam Avenue to the east, half a block south of SW Nevada Avenue to the south, and west to the dead end terminus of SW Texas and SW Nevada Streets. [These two streets are improved only to the base of significant topography further west]. In all directions, the area is residential in use and development, with a significant mix of housing types ranging from older, large homes such as the subject home, to more recently constructed town homes. Beyond the residential area to the east is commercial zoning with a variety of commercial uses and development along the west side of SW Macadam Avenue. Given the absence of other non-household uses in the immediately surrounding residential area, the existing bed and breakfast has no significant impact on the appearance and function of the residential area. The proposed expansion of the bed and breakfast to utilize two additional bedrooms for guests is a modest expansion and is anticipated to have no impacts on the appearance and function of the residential area.

The intensity and scale of the proposed expansion of the existing bed and breakfast meets the development standards and use limits found at 33.212.040 and -050, as determined below in this report. The proposal is relatively small in scale as two additional rooms are proposed for bed and breakfast guests for a total of four guest bedrooms. No employees are proposed. No physical changes to the property are proposed. Given the proposal, the intensity and scale of the proposed expansion of the bed and breakfast will not result in any significant impacts on either the appearance or functioning of the residential area. This criterion is met.

B. Physical compatibility.

1. The proposal will preserve any City-designated scenic resources; and
2. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, and landscaping; or
3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, and other design features.

Findings: The proposal is to expand an existing Bed and Breakfast facility in an existing residential structure on the site. The expansion would incorporate two additional bedrooms as guest quarters, for a total of four guest bedrooms. City-designated scenic resources are indicated on City zoning maps by a lowercase "s." There are no scenic resources on the subject site, and the proposal does not include any exterior changes to the existing structure. The site and development will remain compatible with adjacent residential developments in terms of site size, building scale and style, setbacks, and landscaping. There are no differences in appearance or scale requiring mitigation. This criterion is met.

C. Livability. The proposal will not have significant adverse impacts on the livability of nearby residential zoned lands due to:

1. Noise, glare from lights, late-night operations, odors, and litter; and

2. Privacy and safety issues.

Findings: The regulations of Chapter 33.212, Bed and Breakfast Facilities, limit the number of guests allowed per night and the number of social events and meetings allowed per year at the facility. The proposed expansion to include two additional bedrooms as guest quarters complies with the regulations and limits. As a result, impacts in terms of noise should be similar to any other residential use. As noted earlier, under Neighborhood Response section of this decision, City staff is not able to determine the status of an alleged anti-dog barking device or if it is associated with the Fulton House Bed and Breakfast. However, the proposed expansion to two additional bedrooms for the Bed and Breakfast, will not, in and of itself, result in significant noise impacts. There are no anticipated impacts in terms of glare from lights, late-night operations, odors, or litter. The proposal will not result in any physical changes to the site. There are no anticipated impacts in terms of privacy or safety. Therefore, this criterion is met.

D. Public services.

1. The proposed use is in conformance with the street designations of the Transportation Element of the Comprehensive Plan;
2. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies;

Findings: The site has frontage on SW Virginia, which is designated as a Transit Access Street, City Walkway and City Bikeway, and frontage on SW Texas, a designated Local Service Street. The site is within two blocks of SW Macadam, a Major Traffic and Transit Street. The frontages of both SW Virginia and SW Texas are already fully improved.

Street Designations

At this location SW Virginia is designated in the Transportation Element of the City's Comprehensive Plan (TSP) as a Local Service Traffic Street, a Transit Access Street, a City Walkway, and a City Bikeway. At this location, according to City records, SW Virginia is improved with 36 feet of paving within a 60-foot right-of-way. Both sides of the street are improved with curb and 6-foot wide sidewalks separated from the curb by a planting strip with street trees.

At this location SW Texas Street is designated as a Local Service street for all modes in the Transportation Element of the City's Comprehensive Plan (TSP). At this location, according to City records, SW Texas is improved with 28 feet of paving within a 60-foot right-of-way. Both sides of the street are improved with curb and 6-foot wide sidewalks separated from the curb by a planting strip with street trees.

The proposed bed and breakfast facility is in conformance with the Local Traffic Street designation of SW Virginia and SW Texas in the Transportation Element of the Comprehensive Plan (TSP). The TSP states that, "Local Service Traffic Streets are intended to distribute local traffic and provide access to local residences or commercial uses." The proposed bed and breakfast facility is in conformance with the Transit Access, and City Walkway designations of SW Virginia. SW Virginia is improved with curbs and sidewalks which support

pedestrian activity and access to the transit line on SW Virginia. The proposed bed and breakfast facility is also in conformance with the City Bikeway designation of SW Virginia. There are no bike lanes on SW Virginia; however, the proposal will not change the City's ability to manage SW Virginia as a City Bikeway.

Street Capacity/Level of service/other performance measures

Per Portland Policy Document TRN-10.27 - Traffic Capacity Analysis for Land Use Review Cases: For traffic impact studies required in the course of land use review or development, the following standards apply:

1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.
2. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement.

The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as AM or PM peak hour. Although capacity is a part of the LOS, the City of Portland's performance standards are defined only by LOS, which is defined by average vehicle delay. The City does not have performance standards for any of the other evaluation factors.

A formal transportation impact study (TIS) was not required or prepared in conjunction with the proposed Conditional Use application. The Trip Generation Manual from the Institute of Transportation Engineers does not have comparable trip generation data for the proposed use, only for larger and more traditional hotels and resorts. However, with a limitation of four guest bedrooms plus homeowner accommodations, approximately five vehicles could access the proposed facility at capacity operation of the bed and breakfast. Trips associated with the bed and breakfast guests are generally not expected to occur during typical AM and PM peak hour commuting periods, when PDOT performance standards for intersection level-of-service must be met. In addition, the traffic associated with the site will be reduced with continued use of transportation demand management strategies, as described in more detail below. In consideration of the proximity of transit, the limited increase in traffic anticipated, and the availability of alternative routes for vehicles to access the subject site Portland Transportation concludes that the transportation system can support the proposed development and meet the stated performance measures.

Access to arterials

The subject site is located along SW Virginia and is located within a grid street network with nearby access to SW Macadam (a Major City Traffic Street) and SW Taylors Ferry Road (a Collector Street).

Connectivity

The existing street grid and pattern in the area meets City connectivity spacing requirements.

Transit availability

The site is currently served by Tri-Met bus line 43 on SW Virginia, and lines 35 and 36 on Macadam, all within 500 feet of the subject site. All three of these routes provide service within the neighborhood and provide service to downtown Portland, with further transfer opportunities to travel throughout the City. The three bus lines also provide direct access to the south including access to Lake Oswego, Washington Square, and Oregon City.

On-street parking/neighborhood impacts

Both SW Virginia and SW Texas currently accommodate on-street parking along both sides of the street. The subject site has no driveways, and therefore, the site's entire 100-foot long frontage on SW Virginia and 50-foot long frontage on SW Texas can accommodate on-street parking. There would be approximately five vehicles associated with the site if all four bedrooms are rented out (one vehicle for each bedroom plus one vehicle for the homeowner).

In order to address the on-street parking/neighborhood impacts approval criteria the applicant hired a traffic engineering firm to conduct an on-street parking survey on streets in the vicinity of the site. The on-street parking study included all street frontages within 500 feet of the subject bed and breakfast. The study includes observations of the utilization of on-street parking spaces within 500 feet of the site on a Thursday and a Friday between 4:00pm and 6:00pm. It was determined that this time period would be the most likely time when Bed and Breakfast guests would be at the site, and the time would overlap with the time period that any commuters would still be parking in the area, and the time period that residents would be returning to their homes for the evening. The study found that within 500 feet of the subject site there are currently 142 on-street parking spaces. The utilization of the 142 available spaces during this time period was found to be between 65 and 82 occupied spaces. This leaves at least 60 on-street parking spaces that are currently unoccupied. With approximately 60 unoccupied on-street parking spaces within 500 feet of the subject site during the peak time period for parking the additional demand for on-street parking resulting from the proposed use can be absorbed on the area streets.

Portland Transportation staff can conclude that if the bed and breakfast facility is occupied to its capacity there will be sufficient on-street parking to accommodate all vehicles associated with the facility. The impact to on-street parking in the vicinity of the site will be further reduced with transit usage and continued implementation of the transportation demand management strategies listed below.

Adequate Transportation Demand Management (TDM) strategies

TDM Plans are tools to address potential impacts to an area resulting from uses such as bed and breakfasts. Currently the Bed and Breakfast operators encourage alternate modes of transportation in a variety of ways including advertising the availability of mass transit on their website, providing guests information on how to reach the site from the airport using mass transit, providing bus schedules/maps to guests, providing Portland bicycle maps to guests, and providing a bicycle storage area on site for guests that bring their own bicycles. The demand for on-street parking for guests and traffic associated with the site will be reduced with continued use of the transportation demand management strategies listed above.

Access restrictions

There are no driveways proposed for the site so no access restrictions are necessary.

Impact on pedestrian, bicycle, and transit circulation

There is no reason to believe that the proposed bed and breakfast will have impacts to pedestrian, bicycle or transit circulation.

Safety for all modes

No negative safety impacts are expected with this proposal on any mode of the transportation system.

For these reasons, this criterion is met.

3. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

Findings: The police bureau has reviewed the proposal and notes that services are adequate to serve the bed and breakfast, and there are no concerns or objections. The Fire Bureau has responded that services are adequate and has no concerns. The Urban Forester notes no concerns. Site Development Review for BDS notes no concerns. Life Safety Review notes no concerns, and advises that the applicant will need a change of occupancy permit if the conditional use is approved. BES, Site Development and Water note that services are adequate and have no objections. This criterion is met.

- E. Area plans.** The proposal is consistent with any area plans adopted by the City Council as part of the Comprehensive Plan, such as neighborhood or community plans.

Findings: The site does not lie inside a plan district, but is within the Corbett-Terwilliger-Lair Hill [CTLH] Neighborhood boundary. CTLH has a neighborhood policy plan which was adopted by the City in 1977. The most pertinent policy within the adopted neighborhood plan is Policy A, which states *'Preserve the existing residential neighborhoods... by maintaining the existing dwellings and stimulating compatible housing development and supporting services.'*

The proposal is for a conditional use that is allowed in residential zones and the associated bed and breakfast regulations are intended to allow for a more efficient use of large, older houses in residential areas if the neighborhood character is preserved to maintain both the residential neighborhood experience and the bed and breakfast experience. These regulations enable owners to maintain large residential structures in a manner which keeps them primarily in residential uses. The proprietor can take advantage of the scale and often the architectural and historical significance of a residence. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting. The proposal is consistent with the CTLH adopted policy plan. This criterion is 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.

33.212.010 Purpose

This chapter provides standards for the establishment of bed and breakfast facilities. The regulations are intended to allow for a more efficient use of large, older houses in residential areas if the neighborhood character is preserved to maintain both the residential neighborhood experience and the bed and breakfast experience. These regulations enable owners to maintain large residential structures in a manner which keeps them primarily in residential uses. The proprietor can take advantage of the scale and often the architectural and historical significance of a residence. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.

33.212.030 Where These Regulations Apply

The regulations of Sections 33.212.040 through 33.212.080 apply to bed and breakfast facilities in the R zones. In the RX and RH zone, where a limited amount of commercial uses

are allowed by right or by conditional use, a bed and breakfast facility may be regulated either as a Retail Sales And Service use, or as a bed and breakfast facility under the regulations of this chapter. The decision is up to the applicant.

33.212.040 Use-Related Regulations

- A. Accessory use.** A bed and breakfast facility must be accessory to a Household Living use on a site. This means that the individual or family who operate the facility must occupy the house as their primary residence. The house must be at least 5 years old before a bed and breakfast facility is allowed.

Findings: The applicant is the owner of the house and it is their primary residence. The house was built in 1900 and therefore is more than 5 years old.

- B. Maximum size.** Bed and breakfast facilities are limited to a maximum of 5 bedrooms for guests. In the single-dwelling zones, a bed and breakfast facility over this size limit is prohibited.

Findings: The applicant notes that four bedrooms will be utilized for guests.

- C. Employees.** Bed and breakfast facilities may have nonresident employees for such activities as booking rooms and food preparation, if approved as part of the conditional use review. Hired service for normal maintenance, repair and care of the residence or site such as yard maintenance may also be approved. The number of employees and the frequency of employee auto trips to the facility may be limited or monitored as part of a conditional use approval.

Findings: The applicant notes that no non resident employees will be utilized for the bed and breakfast.

- D. Services to guests and visitors.** Serving alcohol and food to guests and visitors is allowed. The proprietor may need Oregon Liquor Control Commission approval to serve alcohol at a bed and breakfast facility.

Findings: The applicant notes that food and alcohol will be offered to guests and visitors only.

E. Meetings and social gatherings.

1. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings in bed and breakfast facilities are regulated as follows:
 - a. In the single-dwelling zones, commercial meetings are prohibited at a bed and breakfast facility;
 - b. In the multi-dwelling zones, the residents of a bed and breakfast facility may request up to 24 commercial meetings per year as part of a Conditional Use Review. The maximum number of visitors or guests per event will be determined through the Conditional Use Review. Adjustments to the maximum number of meetings per year are prohibited.
2. Private social gatherings. The residents of a bed and breakfast facility are allowed to have only 12 private social gatherings, parties, or meetings per year, for more than 8 guests or visitors. The private social gatherings must be hosted by and for the enjoyment of the residents. Private social gatherings for 8 or fewer

guests are allowed without limit as part of a normal Household Living use at the site.

3. Historical landmarks. A bed and breakfast facility which is located in a historical landmark and which receives special assessment from the State, may be open to the public for 4 hours one day each year. This does not count as either a commercial meeting or a private social gathering.
4. The bed and breakfast operator must log the dates that private social gatherings for more than 8 visitors or guests are held, and the number of visitors or guests at each event. The operator must also log the dates of all commercial meetings held, and the number of visitors or guests at each event.

Findings: The applicant notes that there will be no commercial meetings, and private social gatherings will be limited to 12 per year for more than 8 guests or visitors.

33.212.050 Site-Related Standards

- A. Development standards.** Bed and breakfast facilities must comply with the development standards of the base zone, overlay zone, and plan district, if applicable.
- B. Appearance.** Residential structures may be remodeled for the development of a bed and breakfast facility. However, structural alterations may not be made which prevent the structure being used as a residence in the future. Internal or external changes that will make the dwelling appear less residential in nature or function are not allowed. Examples of such alterations include installation of more than three parking spaces, paving of required setbacks, and commercial-type exterior lighting.
- C. Signs.** The sign standards are stated in Title 32, Signs and Related Regulations.
- D. Accessory dwelling units.** Accessory dwelling units must meet all requirements of Chapter 33.205, Accessory Dwelling Units.

Findings: The applicant notes that any signage will meet the applicable regulations. No structural alterations are proposed, and no external or internal changes are proposed that would result in the dwelling appear less residential in nature or function.

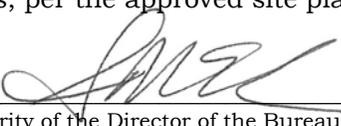
CONCLUSIONS

The applicant proposes to expand an established Bed and Breakfast facility by utilizing four bedrooms for guests. No employees are proposed. The owners will host and operate the facility. No changes to the residential structure are proposed. The Bed and Breakfast facility as proposed, is small in scale and intensity. All associated public services are adequate, and no conditions of approval are necessary in order for the proposal to meet all of the applicable approval criteria.

ADMINISTRATIVE DECISION

Approval of:

A conditional use to expand an established Bed and Breakfast facility utilizing up to **4** rooms for guests, and no employees, per the approved site plan, Exhibit C-1, signed and dated November 3, 2008.

Decision rendered by:  **on November 3, 2008**

By authority of the Director of the Bureau of Development Services

Decision mailed: November 5, 2008**Staff Planner: Sylvia Cate**

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 August 15, 2008, and was determined to be complete on August 21, 2008.

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 August 15, 2008.

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 extend the 120-day review period a total of 45 days, per Exhibit A-3.

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 Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on November 19, 2008** 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 Hearings Officer 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 Hearings Officer 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 **November 20, 2008**
- 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;

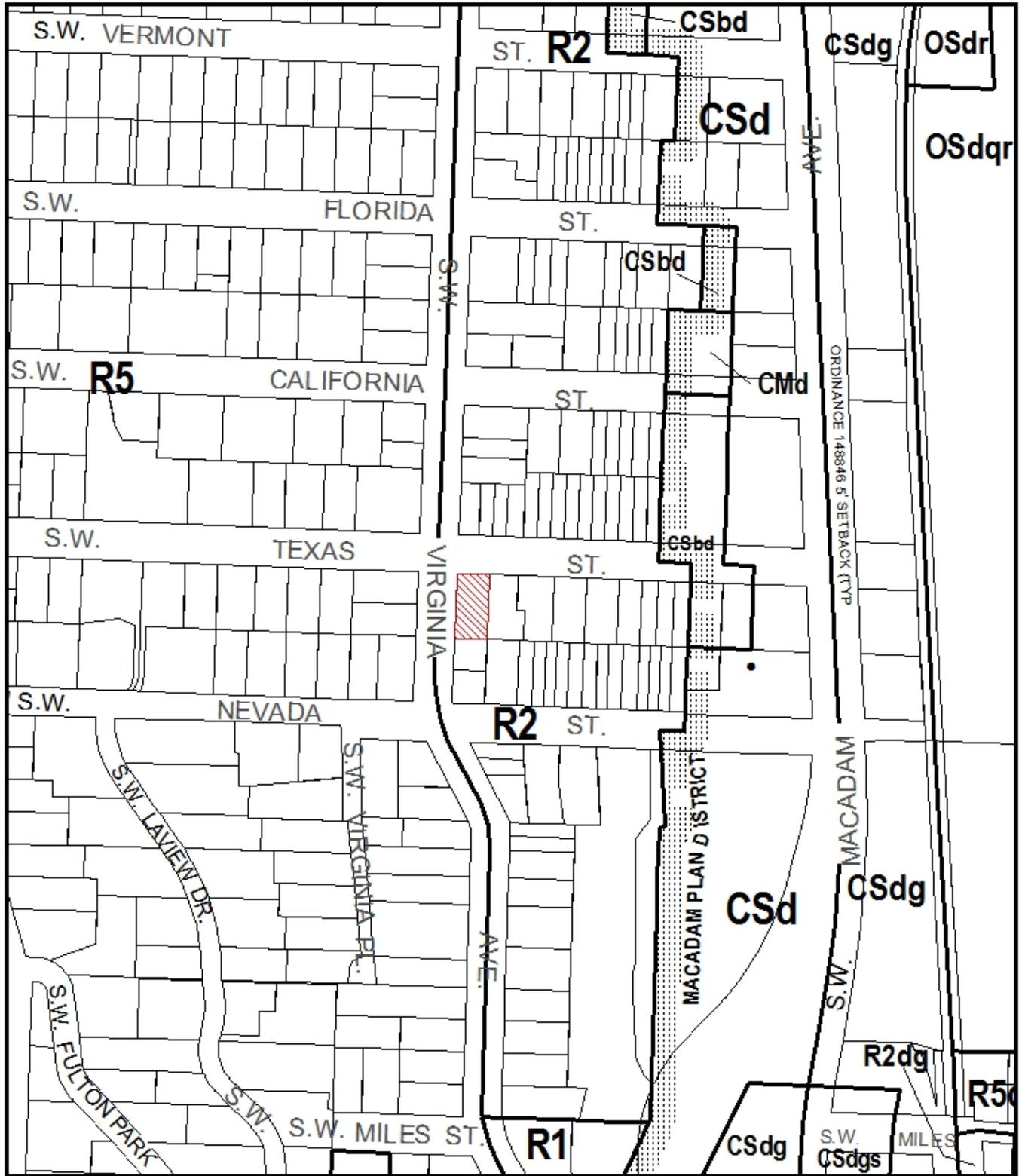
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Proposal Narrative
 - 2. Additional information and Parking Survey
 - 3. 120-day clock extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. 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. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Bureau of Police
 - 8. BDS Life Safety Plans Examiner
- F. Correspondence:
 - 1. Maloney; August 14, 2008; In Support
 - 2. Porter; August 15, 2008; In Support
 - 3. Musake; August 15, 2008; In Support
 - 4. Croxford; August 15, 2008; In Support
 - 5. Centrone; August 15, 2008; In Support
 - 6. Ruuttila; August 15, 2008; In Support
 - 7. Donald G. Ne____, Jr. August 5, 2008, In Support
 - 8. Galick, August 15, 2008, In Support
 - 9. White-Dum; August 5, 2008, In Support
 - 10. Hunter, August 15, 2008, In Support
 - 11. Fendall and Baglien, September 16, 2008, In Opposition
 - 12. Tuski, September 16, 2008, In Opposition
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING



Site



Historic Landmark



File No.	LU 08-155408 CU
1/4 Section	3729
Scale	1 inch = 200 feet
State Id	1S1E22BA 7800
Exhibit	B (Aug 18, 2008)

CONDITIONAL USE
PROPOSAL ONLY
NO CHANGES TO
EXISTING STRUCTURE

TEXAS STREET

5.0'

FIRE
HYDRANT

SIDEWALK

GAS LINE

LOT COVERAGE

LOT AREA 5000'
BLDG. AREA 1500'
(INCL. OVERHANG)
 $1500 \div 5000 = 30\%$
LOT COVERAGE

LOTSIZE 50' x 100'

VIRGINIA AVENUE

SEWER LINE

SEWER LINE

180'

EXISTING HOME
FAMILY RESIDENCE

Conditional
USE to expand
Bed + Breakfast
to 4 bedrooms

PROPERTY LINE

PROJECT LEGAL
SOUTHERN PORTLAND;
LOT 1 BLOCK 16
TAX # - R273185



330'

Approved
City of Portland
Bureau of Development Services
Planner *[Signature]*
Date Nov 3, 2008
• This approval applies only to the
reviews requested and is subject to all
conditions of approval
Additional zoning requirements may apply.

EXHIBIT
C-1

PROJECT ADDRESS
7006 SW VIRGINIA AVE
PORTLAND, OR 97219

PROPERTY LINE

L008-155408 CU

SITE PLAN SCALE 1" = 10'