



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: June 25, 2014
To: Interested Person
From: Andrew Gulizia, Land Use Services
503-823-7010 / Andrew.Gulizia@portlandoregon.gov

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 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 14-134864 CU

GENERAL INFORMATION

Applicants/Owners: Jade De La Paz and Zachary Whitten
4405 NE Cesar Chavez Blvd / Portland OR 97211

Site Address: 4405 NE Cesar Chavez Blvd.

Legal Description: BLOCK 25 S 50' OF LOT 1, WILSHIRE
Tax Account No.: R919007880
State ID No.: 1N1E24DA 07700
Quarter Section: 2634
Neighborhood: Beaumont-Wilshire, contact Michael Rounds at 503-936-0740
Business District: None
District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-3156
Plan District: None
Zoning: R5h – Single-Dwelling Residential 5,000 with “h” Aircraft Landing overlay zone

Case Type: CU – Conditional Use review
Procedure: Type II administrative decision with appeal to the Hearings Officer

Proposal:

The applicants request Conditional Use approval to operate a bed and breakfast (B&B) facility in the existing house and accessory building on this site. No exterior alterations to the house or accessory building are proposed. The proposal includes four guest rooms (three in the house and one in the detached accessory building, a converted garage). The property owners will reside in the house and operate the facility. The applicants state that guests will be directed to park in the driveway whenever possible. No outside employees, meal service, or commercial events are proposed.

B&B facilities are allowed in residential zones when the proposal meets the approval criteria and applicable standards. The regulations are intended to allow for efficient use of older houses in residential areas if the neighborhood character is maintained. 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 in Section 33.815.105: Conditional Use Approval Criteria for Institutional

and Other Uses in a Residential Zone. Also, Chapter 33.212: Bed and Breakfast Facility Regulations apply.

ANALYSIS

Site and Vicinity: The site is a 5,250 square-foot lot located on the west side of NE Cesar Chavez Boulevard, between NE Skidmore Street and NE Prescott Street. The site is developed with a one-story single-dwelling house and a detached accessory building (formerly a garage) in the rear yard. Most neighboring lots are also developed with one-story single-dwelling houses. This segment of NE Cesar Chavez Boulevard is a fairly narrow Local Service street within a 50 foot-wide right-of-way. Sidewalks and on-street parking are available on both sides of the street.

Zoning: The R5 designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The Aircraft Landing ("h") overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. However, in residential zones such as R5 the base zone height limits apply instead of the height limits of the "h" overlay. This property is in compliance with the 30-foot height limit of the R5 zone.

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

Agency Review: A "Notice of Proposal" was mailed May 27, 2014. The following Bureaus responded:

- The Bureau of Environmental Services had no concerns about the proposal but responded with information on sanitary sewer service and stormwater management. (Exhibit E-1)
- The Bureau of Transportation Engineering and Development responded with information concerning how the proposal meets transportation-related approval criteria. Details of this response are included below under Zoning Code Approval Criteria. (Exhibit E-2).
- The Water Bureau responded with information on water service and raised no concerns about the proposal. (Exhibit E-3)
- The Fire Bureau responded with no concerns. (Exhibit E-4)
- The Police Bureau responded that the Bureau is capable of serving the proposed use. The comments include recommendations to ensure the address marker is visible and to maintain trees and vegetation to maximize visibility for officers. (Exhibit E-5)
- The Site Development Section responded with general site information and no concerns about the proposal. (Exhibit E-6)
- The Life Safety Section of the Bureau of Development Services responded with building permit information and no concerns about the proposal. (Exhibit E-7)
- The Urban Forestry Section of Portland Parks and Recreation provided information on tree preservation requirements and stated no objections to the proposal. (Exhibit E-8)

Neighborhood Review: One e-mail from the president of the Beaumont Wilshire Neighborhood Association was received in response to the mailed "Notice of Proposal." This e-mail relayed concerns from a neighboring property owner. The neighbor was concerned that the applicants may not always be on-site while guests are present, that the use of the accessory building as a guest room will raise privacy issues, and that guests of the B&B may trespass on neighboring property.

Staff Response: Although Zoning Code Section 33.212.040.A requires the operators of the B&B to reside on the property, there is no requirement that the owners or operators are present at all times that guests are present.

Privacy issues related to use of the accessory building as a guest room are discussed below in the findings for approval criterion 33.815.105.C. Conditions of approval will be imposed to limit negative impacts on neighbors' privacy.

Nothing in this Conditional Use approval gives guests the right to trespass on neighbors' property. Although guests may walk through the public right-of-way, including sidewalks, they may not cross onto neighbors' property without permission. The applicants are notified of this concern through this report, and are encouraged to make the location of property lines clear to guests. If trespassing occurs, the Police Bureau may assist with enforcement.

ZONING CODE APPROVAL CRITERIA

Conditional Uses

33.815.010 Purpose

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 this review, the "residential area" for the proposed B&B is defined as the properties abutting both sides of NE Cesar Chavez Boulevard in the block between NE Prescott and NE Skidmore Streets. (This coincides with the parking study area discussed below in the findings for approval criterion D.) This area is zoned R5 and is developed exclusively with single-dwelling houses. No non-Household Living uses are identified in this area. The closest property developed with a non-Household Living use is the Bethany Lutheran Church, which is two blocks from the site at the corner of NE 37th Avenue and NE Skidmore Street.

The proposal will not alter the proportion of Household Living uses in the area because bed and breakfast facilities in residential zones are classified as a Household Living use. Zoning Code Section 33.920.110 describes the characteristics of Household Living uses and explicitly lists bed and breakfast facilities as one of the accessory uses of Household Living.

Without approval of a Conditional Use for a bed and breakfast facility, this site would be limited to one or more persons related by blood, marriage, or adoption plus up to five additional, unrelated residents (Zoning Code Section 33.910.030 definition

of “Household”). The applicants’ proposal includes four bedrooms for guests, with the applicants occupying a fifth bedroom. The typical number of occupants on the site at any one time will be similar to the number of people who could legally reside on the property without bed and breakfast status. Furthermore, meetings and social gatherings in an approved bed and breakfast facility are limited as specified below in the discussion of Development Standards. The proposal is not expected to create any substantial increase in the intensity of the Household Living use over what could be allowed without the Conditional Use approval.

For these reasons, this criterion is met.

B. Physical compatibility.

1. The proposal will preserve any City-designated scenic resources; and

Findings: No City-designated scenic resources are present at the site. Therefore, this criterion is not applicable.

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

Findings: The 5,250 square-foot site is similar to neighboring lots in lot size and landscape area, and the one-story house on the site is similar in building scale, design, and setbacks to neighboring homes along NE Cesar Chavez Boulevard. Since no new construction or building façade changes are proposed, the site will remain compatible with adjacent residential development in terms of site size, building scale, style, setbacks, and landscaping. This criterion is met.

3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, and other design features.

Findings: No mitigation is necessary. There are minimal differences in scale and appearance between the proposed B&B and adjacent residential development. This criterion is not applicable.

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

Findings: The applicants propose to enforce quiet hours between 10:00 PM and 8:00 AM on weekdays and between 10:30 PM and 8:00 AM on weekends. Additionally, pursuant to Zoning Code Section 33.212.040.E, social gatherings with more than eight guests are limited to twelve per year. The covered patio behind the accessory building, which abuts the south and west property lines in violation of the setback requirements, may create adverse noise impacts by facilitating an all-weather outdoor activity area immediately adjacent to neighbors’ back yards. In addition, the patio cover was constructed without the required building permit. For these reasons, a condition of approval will require removal of the patio cover behind the accessory building.

No changes to the existing exterior lighting are proposed. The existing exterior lighting includes porch lights, solar-powered garden lights, and string lights in the back yard. This type of lighting is typical for Household Living uses in residential areas, and will impose no significant adverse impacts on neighbors.

No odors are anticipated to result from the B&B operation, and the applicants state they will immediately remove any guests’ litter found on or near the property. The applicants have also submitted a “house rules” list (Exhibit A-4) which will help

prevent noise, litter and other livability impacts on neighbors. A condition of approval will require that these rules be continually enforced.

With the condition of approval that the “house rules” in Exhibit A-4 are continually enforced, this criterion is met.

2. Privacy and safety issues.

Findings: Use of the existing house as a B&B will have no greater impact on neighbors’ privacy than could occur in a non-B&B residence. As discussed previously, no alterations to the one-story house are proposed, and the typical number of occupants in the house at any one time will be similar to the number of people who could legally reside in the house without bed and breakfast status.

A neighboring property owner has raised concerns about privacy impacts from use of the accessory building as a guest room (Exhibit F-1). The accessory building, a former garage which was legally constructed, is only one foot from the south side property line. The building has no windows facing the south property line, and to limit privacy impacts on the adjacent neighbor a condition of approval will prohibit future installation of south-facing windows.

Another potential source of privacy impacts is the covered patio behind the accessory building, which facilitates an all-weather outdoor activity area immediately adjacent to neighbors’ back yards. As mentioned above, the patio cover abuts the south and west property lines in violation of the setback requirements and was constructed without the required building permit. For these reasons, a condition of approval will require removal of the patio cover behind the accessory building.

No safety impacts are anticipated. The Fire Bureau has responded with no concerns. The Police Bureau has reviewed the proposal and found that police services in the area are adequate to serve the proposed B&B use. Also, the applicants state the Web service they will use to book guests (airbnb.com) has security features to verify guests’ identification and credit card information.

The applicants have also submitted a “house rules” list (Exhibit A-4) which will promote safety and limit privacy impacts on neighbors. A condition of approval will require that these rules be continually followed.

With this condition of approval, this criterion is met.

D. Public services.

1. The proposal is supportive of the street designations of the Transportation Element of the Comprehensive Plan;

Findings: At this location, NE Cesar Chavez Blvd. is classified in the Transportation System Plan (TSP) as a Local Service street for all modes. The proposed bed and breakfast is supportive of the various street designations of this street. The TSP states that, “Local Service streets provide local circulation for traffic, pedestrians and bicyclists” and that “Local Service Traffic Streets are intended to distribute local traffic and provide access to local residences or commercial uses.” The development of the site with a bed and breakfast will not impact the distribution of local traffic throughout the area.

2. The transportation system is capable of supporting the proposal 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 Portland Bureau of Transportation submitted the following response:

Street capacity/level of service

A transportation impact study (TIS) was not prepared and submitted in conjunction with the proposed Conditional Use application. The Trip Generation Manual from the Institute of Transportation Engineers does not have any comparable trip generation data for the proposed use, only for larger and more traditional hotels and resorts. However, the number of vehicles likely to access the proposed facility at any given time, and especially during the morning or afternoon peak hour times will be minimal. The probability of those vehicles arriving at the site during either the morning or afternoon traditional peak periods of operation on the same day and at the same time via the same route and through the same intersections from throughout the broader transportation system, would be rather unlikely given the nature of the proposed use. Accordingly, the resulting insignificant number of vehicle trips to the area during the traditional morning and afternoon peak hours of travel, will not impact the existing transportation system. Any services for the facility (landscaping, cleaning, regular maintenance, etc.) will not be done on a daily basis and generally not during peak hour times of travel.

Access to arterials

The subject site is located in close proximity to nearby arterial streets along NE Prescott to the north and NE 42nd Ave to the east. These nearby arterial roadways lead to additional arterials throughout the broader transportation system.

Connectivity

The subject site is located within a robust street grid pattern that generally meets City connectivity spacing goals. There are established block patterns and existing development that precludes any improvement upon the current connection spacing. PBOT has no concerns relative to connectivity and the proposed Conditional Use request.

Transit availability

The site is currently served by transit via Tri-Met bus route #70 (12th/NE 33rd Ave) along NE 33rd Ave, a short distance west of the subject site. To the east of the subject site, along NE 42nd Ave, Tri-Met offers bus service via route #75 (Cesar Chavez/Lombard).

On-street parking/neighborhood impacts

Based on information supplied to City staff by the applicant, on average, there will be no more than 2 cars (at any one point in time) associated with the house/proposed bed and breakfast. One car per rented room is possible, but is not a common occurrence. Guests will be told to park in the driveway, and the owner will park their car on the street in front of the house. In the event that a guest car occupies the driveway, additional guest car(s) will be parked on the street in front of the house, if those spaces are available. Because on-street parking may not be available directly in front of the subject home, guests may have to park elsewhere along the street. However, if this occurs, the applicants have indicated that at least one (subject home) owner will visually confirm that the car is not blocking or disturbing any neighbors' homes, driveways or traffic in the neighborhood. Guest cars will have priority access to the spaces around the home before the owner so that, in the event that parking elsewhere on the street is necessary, the owner will control where their vehicle is parked to ensure all neighbors are respected.

To obtain an understanding of the on-street parking supply/demand in vicinity to the subject site and proposed bed and breakfast, PBOT staff requested that the applicants conduct a parking survey to determine the potential impacts of the proposed project. The parking survey area included both sides of NE Cesar Chavez

between NE Prescott and NE Skidmore. The survey was conducted at different times throughout the week. Data provided show that, out of an estimated 47 on-street parking spaces available on the block, the maximum usage (by day) occurred on Saturday and Sunday where, on average, 20% of the available parking spaces were in use throughout the day. The minimum usage (by day) occurred on Monday and Friday where, on average, 13% and 14%, respectively, of the available spaces were in use throughout the day. The maximum usage (by time) occurred in the early morning (7:30am) and at night (10:30pm) where, on average, 19% and 22%, respectively, of the available spaces were in use over the course of a week. The minimum usage (by time) occurred in the morning (10:30am) and afternoon (2:30pm) where, on average, 14% and 13%, respectively, of the available spaces were in use over the course of a week. The overall average parking usage for each day observed was 17% and the overall average usage for each time slot observed was also 17%, giving an overall average for all observations of 17%. Given that the maximum occupancy of available street parking on the block did not exceed 22% during the data collection period (May 2014), the existing parking supply along the block is sufficient to support the existing uses as well as the proposed bed and breakfast facility.

Access restrictions

The submitted site plan shows a single driveway that serves the subject site. There is no reason to restrict access onto the site via the existing driveway, but the applicants are advised to take measures to ensure that guest vehicles that are parked on the driveway don't extend onto the adjacent sidewalk. PBOT has no access restriction concerns.

Impact on pedestrian, bicycle, and transit circulation

The site's frontage is improved with a sidewalk, as are the homes throughout the area. There will be no impact on pedestrian circulation in relation to the proposed bed and breakfast. The site is within an area served by several identified bicycle facilities (Portland Bike/Walk Map) including Shared Roadways along N Prescott and N Skidmore, north and south of the site, respectively. There is also a Neighborhood Greenway/Signed & Marked Route along NE 37th Ave, west of the subject site. 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 significant negative safety impacts are expected with this proposal on any mode of the transportation system.

Adequate Transportation Demand Management (TDM) strategies

PBOT has not identified any transportation-related impacts expected from the proposed bed and breakfast, which is typically why a Traffic Demand Management Plan (TDMP) is proposed (or required). Therefore, PBOT *is not requiring* the applicants to develop and submit a TDMP.

PBOT acknowledges and supports the applicants' efforts to minimize single-occupancy vehicles by the following *voluntary* measures:

- At least 3 bicycles will be available to guests to rent for a minimal fee, which will be put toward the cost of the bikes, bike equipment, and their maintenance.
- Tri-Met 2-hour and 1-Day passes will be available for guests to purchase at face value, in advance of any outings.

- Maps, guidebooks, and local menus will be available for guests to assist with exploration of the city and encourage patronization of local businesses and restaurants.

In summary, PBOT staff finds that the transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Accordingly, PBOT has no objections to the proposed Conditional Use.

For all the reasons stated above, 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 Water Bureau notes that existing water supply is adequate. Police and fire protection services are available and capable of serving the proposed use. The Portland Police Bureau has provided recommendations regarding the visibility of the street address and landscaping to ensure that public safety is maintained. The Bureau of Environmental Services has no objections to the proposal. For these reasons, 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 is not within the boundaries of any adopted neighborhood or community plans. 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. 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.

The following development standards apply to B&B facilities:

33.212.010 Purpose – Bed and Breakfast Facilities

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.

Staff Response: The applicants are the owners of the property and it is their primary residence. The house was built in 1941.

- 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.

Staff Response: The applicants plan to provide four bedrooms for guests: three in the main house and one in the accessory building in the rear yard.

(Note: The applicants state the accessory building (a former garage) was converted to an artist's studio by a previous owner. Building permits are required whenever habitable space is created, and no building permit for this work was found. Since use of the accessory building as habitable space is part of the applicants' proposal, a retroactive building permit will be required as a condition of approval.

- C. Employees.** Bed and breakfast facilities may have non-resident 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.

Staff Response: No non-resident employees are proposed.

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

Staff Response: The applicants do not intend to serve food or alcohol to guests at this time.

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.

Staff Response: The applicants note that there will be no commercial meetings on the site. Commercial meetings are prohibited at bed and breakfast facilities in single-dwelling zones.

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.

Staff Response: The applicants acknowledge that private social gatherings will be limited as specified above.

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.

Staff Response: There is no historical landmark on the subject site.

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.

Staff Response: The log book will be the responsibility of the applicants to maintain.

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.

Staff Response: Since no new construction is proposed, the development standards of the R5 base zone and the Aircraft Landing overlay zone are not applicable. The site is not within a plan district.

- 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.

Staff Response: No new lighting, paving, or remodeling of residential structures is proposed at this time. The applicants state that a new bathroom within the accessory building may be constructed in the future, but this alteration would not change the residential nature or function of the property. This criterion is met.

(Note: The applicants are advised that approved building and plumbing permits will be required before a new bathroom can be constructed.)

- C. Signs.** The sign standards are stated in Title 32, Signs and Related Regulations.

Staff Response: Any signage will be required to meet the applicable regulations.

- D. Accessory dwelling units.** Accessory dwelling units must meet all requirements of Chapter 33.205, Accessory Dwelling Units.

Staff Response: An Accessory Dwelling Unit is not proposed for this site. The applicants propose to use the accessory building in the rear yard as a guest room, but no kitchen facilities in that building are proposed.

CONCLUSIONS

The applicants propose to operate a bed and breakfast facility with four guest rooms. No exterior alterations are proposed. The owners will reside at the facility and no non-resident employees are proposed. No commercial meetings will be held. The proposed bed and breakfast facility meets all of the applicable approval criteria and therefore should be approved.

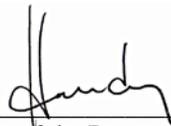
ADMINISTRATIVE DECISION

Approval of a bed and breakfast facility with a maximum of four guest rooms, per the approved

site plan, Exhibit C-1, signed and dated June 23, 2014, subject to the following conditions:

- A. No windows or doors may be installed on the south-facing wall of the accessory building.
- B. The "House Rules" (Exhibit A-4) must be continually enforced.
- C. On or before September 23, 2014, a building permit must be obtained to operate the B&B in both the primary residence and detached accessory building. The permit must "legalize" the conversion of the garage to the habitable space that was created in the accessory building.
- D. The building permit submittal must identify that the patio cover behind the accessory building will be removed prior to the final building permit inspection.
- E. The building permit site plan must be labeled, "Proposal approved in Case File # LU 14-134864 CU."

Staff Planner: Andrew Gulizia

Decision rendered by:  **on June 23, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: June 25, 2014

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 April 3, 2014, and was determined to be complete on **May 21, 2014**.

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 April 3, 2014.

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, applicants did not waive or extend the 120-day review period. Unless extended by the applicant, **the 120 days will expire on: September 18, 2014.**

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 July 9, 2014**, 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 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 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 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 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 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 **July 10, 2014**.
- 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:

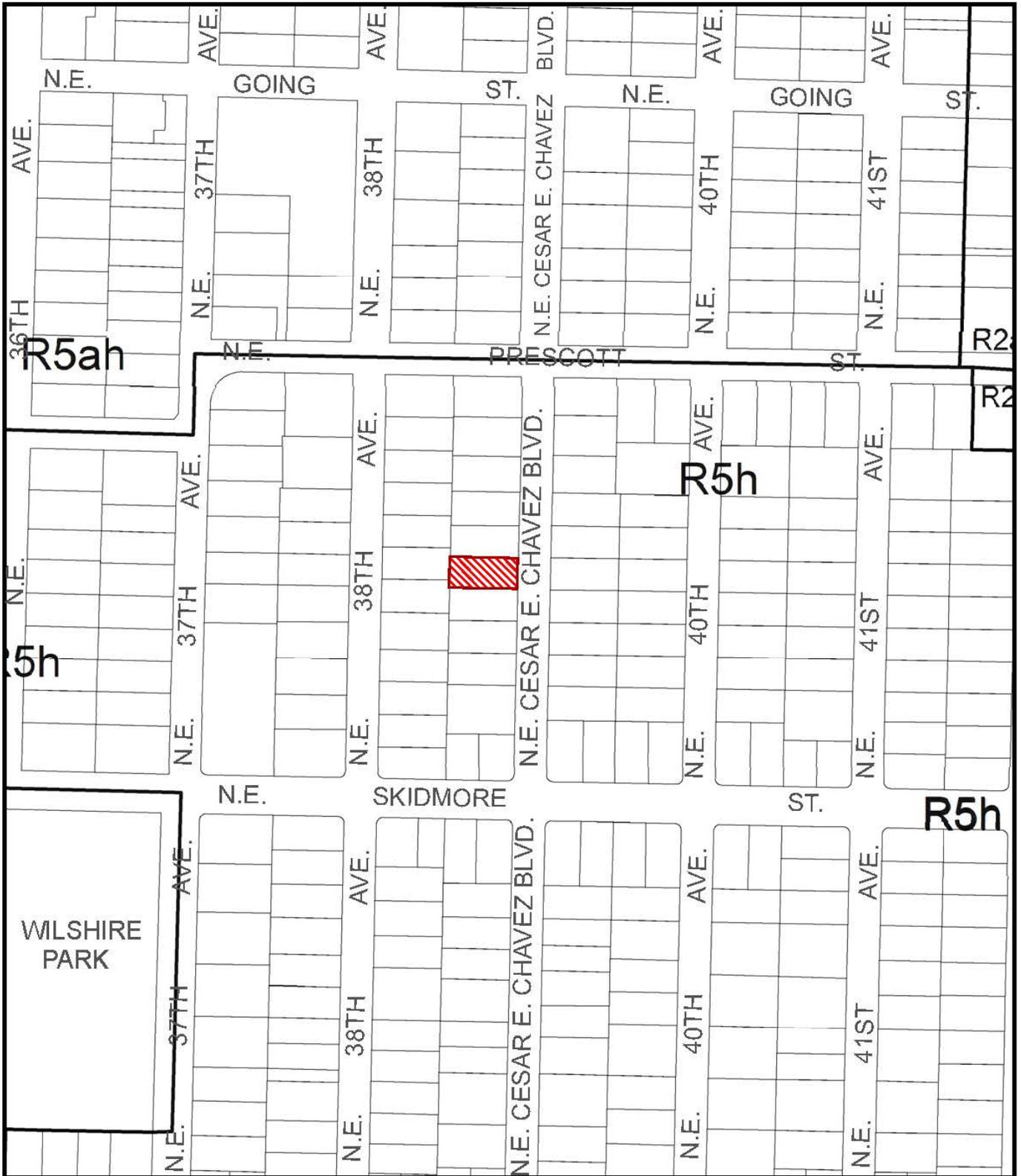
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Applicant's narrative
 2. Applicant's revised narrative, received May 19, 2014
 3. Applicant's responses to Police Bureau questions, received June 1, 2014
 4. Applicant's "House Rules" for operating the B&B (attached)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site plan (attached)
 2. Floor plans
 3. Site photographs
- 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. Police Bureau
 6. Site Development Review Section of BDS
 7. Life Safety Review Section of BDS
 8. Bureau of Parks, Forestry Division
- F. Correspondence:
 1. E-mail from John Sandie, dated June 17, 2014
- G. Other:
 1. Original LU application
 2. Incompleteness determination letter, dated April 15, 2014

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



Site



NORTH

File No. LU 14-134864 CU
 1/4 Section 2634
 Scale 1 inch = 200 feet
 State_Id 1N1E24DA 7700
 Exhibit B (Apr 07,2014)

Rules for Staying at Greenhouse Airbnb

Please do not block the sidewalk access with your car.

Please do not block a driveway with your car.

Please be mindful of your noise level, and maintain quiet hours between 10pm and 8am on weekdays, and 10:30pm and 8am on weekends.

Please return the key upon departure, or a fee of \$15 will be charged for replacement cost.

DO NOT have parties, or unapproved guests on the premises.

Please only place trash in the bins associated with the house. Do not use a neighbor's trash bin.

Please do not smoke, or engage in drug use on the premises.

Please do not have pets inside the house.

Please keep the front door of the house locked at all times. Please lock upon your departure and arrival.

Please do not enter the upstairs space of the owners.

Please do not light a fire in the fireplace, or one of the candles, unless one of us has been asked beforehand.

Fires are permitted in the fire-pit out back, but must be supervised at all times.

Please remove shoes upon entering the house.

I, the undersigned, hereby promise to adhere to these Rules.

Signature

Print

Planner AG
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.
Date 6/23/14
City of Portland - Bureau of Development Services
* Approved *

LU 14-134864 CU
Exhibit A-4

NORTH
ARROW



PROJECT LEGAL

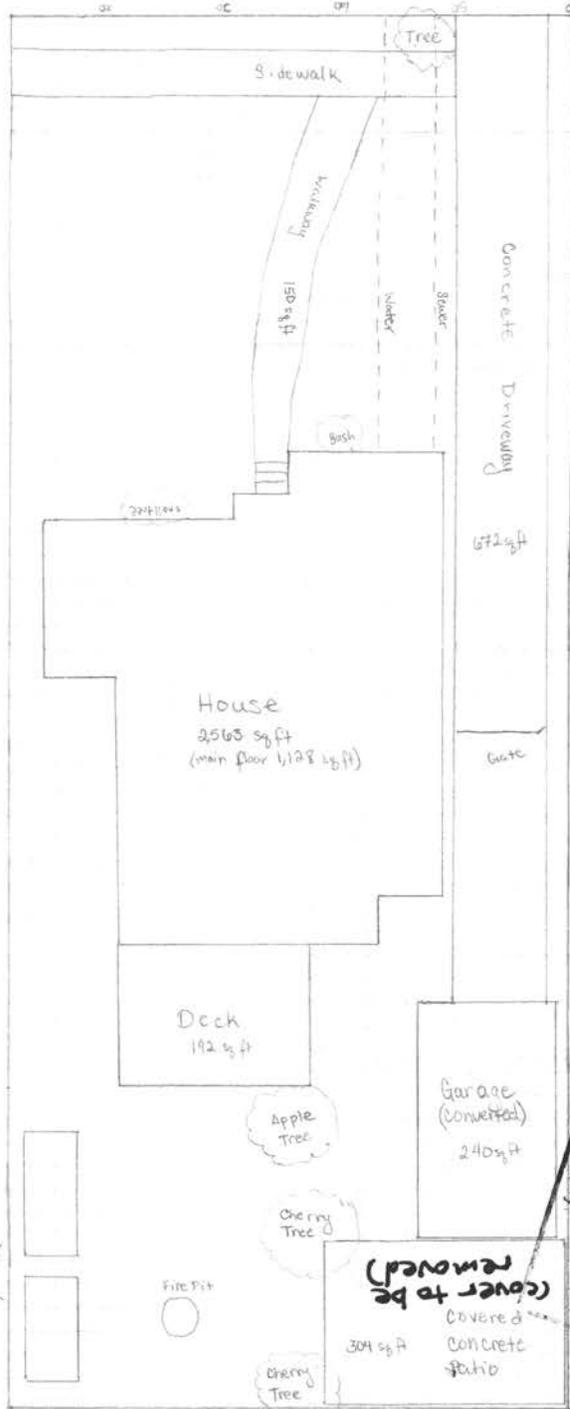
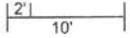
Wilshire, Block 25,
S 50' of Lot 1

PROJECT ADDRESS

← NE 39th →
4405 NE Cesar E Chavez
Bld., Portland, OR,
97211

SITE PLAN

SCALE 1" = 10'



Planner: [Signature]
City of Portland - Bureau of Development Services
Approved
This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.
Date: 6/23/14

IMPERVIOUS AREA

DRIVEWAY 672 sq ft

PATIO 304 sq ft

WALK 150 sq ft

ROOF AREA
(INCL. OVERHANG) 1,128 sq ft

TOTAL 2,406 sq ft

BUILDING COVERAGE

BUILDING FOOTPRINT 1,128 sq ft

LOT AREA

5,688 sq ft

*All buildings, trees, etc. shown in this plan are existing; no changes to the property, that would affect this site plan, are proposed, or planned.

Exhibit C1
LU 14-134864CU