



**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](http://www.portlandoregon.gov/bds)

**Date:** April 21, 2015  
**To:** Interested Person  
**From:** Matt Wickstrom, Land Use Services  
503-823-6825 / [Matt.Wickstrom@portlandoregon.gov](mailto:Matt.Wickstrom@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 mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 14-237773 CU**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Shane G Stark  
6700 E Burnside St / Portland OR 97215

**Site Address:** 6702 E BURNSIDE ST

**Legal Description:** BLOCK 6 LOT 5&6 TL 300, RIDGEMONT  
**Tax Account No.:** R704801690, R704801690  
**State ID No.:** 1N2E32CC 00300, 1N2E32CC 00300  
**Quarter Section:** 3037  
**Neighborhood:** Mt. Tabor, contact Stephanie Stewart at 503-230-9364  
**Business District:** Eighty-Second Ave of Roses Business Association, contact Frank Harris at 503-774-2832  
**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010  
**Zoning:** R2 (Residential 2,000)  
**Case Type:** CU (Conditional Use Review)  
**Procedure:** Type II, an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

The applicant requests conditional use approval to operate an Accessory Short-Term Rental (ASTR) in the existing duplex. The proposed ASTR will provide up to five rooms for guests, three on the main floor, one on the second floor and one in the basement. Typically, the applicant will reside in one of the five bedrooms. The applicant will host and operate the facility. No permanent employees are proposed other than the type of employees that would be typically associated with a single-dwelling residence such as a landscaper. No commercial meetings are proposed. ASTRs are only allowed as accessory to an existing house or accessory dwelling unit. Therefore, a permit has been issued to convert the duplex to a single-dwelling house with an accessory dwelling unit. Check-in for the ASTR is planned for between 2-4 PM. Check-out time is planned for noon. Guests will be encouraged to use public transportation when arriving, departing and touring Portland. In addition, there is off-street parking for four vehicles, two in a garage.

ASTRs 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 homes in residential areas if the residential appearance and function is preserved. These regulations enable owners to maintain large residential structures in a manner that keeps them primarily in residential uses. 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 approval criteria are:

- 33.815.105, Conditional Use Approval Criteria for Institutional and Other Uses in a Residential Zone
- 33.207.050 Type B Accessory Short-Term Rentals

**ANALYSIS**

**Site and Vicinity:** The 8,880 square foot site is developed with a two-story Spanish stucco style building fronting in E Burnside Street. The structure is currently permitted as a duplex however permits have been issued to convert the duplex to a home with an accessory dwelling unit. The home is currently approved as a Type A ASTR which allows up to 2 bedrooms in a home to be rented to overnight guests. The proposed Type B ASTR will replace the Type A ASTR.

The surrounding vicinity is developed with multi-dwelling and single-dwelling structures. Two apartments are located to the west of the site. They are two and three stories in height. Single dwelling homes and duplexes make up the bulk of the remaining development in the vicinity.

**Zoning:** The site is zoned R2 (Residential 2,000). The R2 zone allows multi-dwelling residential development up to a maximum density of one unit per 2,000 square feet of site area, and requires a minimum density of one unit per 2,500 square feet of site area. At 8,880 square feet, a total of four dwelling units would be allowed on the subject site.

**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 **February 2, 2015**. The following Bureaus have responded:

- The Water Bureau responded with information on water service (Exhibit E-1).
- The Bureau of Environmental Services responded with information on sanitary services and stormwater management (Exhibit E-2).
- The Portland Bureau of Transportation responded with information addressing the transportation-related approval criteria (Exhibit E-3).
- The Police Bureau responded that police services are adequate to serve the proposed use (Exhibit E-4).
- The Site Development and Life Safety section of the Bureau of Development Services and the Urban Forestry section of Portland Parks & Recreation responded with no concerns (Exhibit E-5).

**Neighborhood Review:** A total of three written responses have been received from notified property owners in response to the proposal.

The first response came from neighbors who live across the street from the site. The neighbors state their primary concern is about parking and question whether four off-street parking spaces are practical at the site because “any more than 2 cars would mean that someone would be boxed in”. The neighbors note that street parking on Burnside is limited due to the pro-time lanes and express concerns about parking issues in general in the vicinity. The neighbors request the Conditional Use Review be denied (Exhibit F-1).

*Staff response: To achieve four on-site parking spaces, the applicant provides two in the garage and two new parallel spaces next to the driveway. An on-street parking study was provided by the applicant and reviewed by the Portland Bureau of Transportation. The study is discussed below under criterion D-2.*

The second response came from a neighbor who lives on NE 67<sup>th</sup> Avenue. The neighbor states that a new “multi-unit dwelling” is under construction one block away from the site at the corner of NE Davis Street and NE 67<sup>th</sup> Avenue. The neighbor provided a map showing lots in the vicinity which are developed at densities greater than a single-dwelling residence. The neighbor refers to the proposed ASTR as a commercial use. The neighbor states that the rental has been operational for some time and no guests arrive via public transportation. He also states that guests are not allowed to park on-site. The neighbor questions how the addition of two employees will impact the parking situation. The neighbor also provides a photo of the driveway at the site and states in his letter that it would be dangerous to back down this driveway onto E Burnside. The neighbor explains that waste management vehicles have difficulty making a turn at NE 67<sup>th</sup> off Burnside due to vehicles being parked too close to the intersection. He expresses concern that parking could impact the movement of emergency vehicles.

*Staff response: Lots fronting on E Burnside are zoned R2 (Residential 2,000) which is a multi-dwelling zone that allows one unit per 2,000 square feet of site area. The density of the development on the lots the neighbor highlighted on the map is consistent with this zoning. The lot at NE Davis Street and NE 67<sup>th</sup> is zoned R5 and is being developed with a duplex. Duplexes are allowed on corner lots in the R5 zone. The ability for guests to park on-site is addressed as part of this review. The applicant clarified the use of two employees. No employee would be full-time and any employees would provide services such as cleaning or maintenance that is comparable to a single-dwelling residence. Difficult turning for the waste management vehicle is not a result of the proposed ASTR. The Portland Bureau of Transportation operates a phone line to report issues with on-street parking. The phone number is 503-823-SAFE.*

The third letter came from neighbors who live across E Burnside from the site. The letter requests that the Conditional Use Review be denied. The neighbors state that residents of the apartment building nearby the site park on the side streets and that makes it difficult to get out of their driveway. The neighbors also state that the applicant allows dogs to stay at the ASTR and there have been issues with dog waste being left behind on the neighbors’ yard. The neighbors mention the duplex under construction at the corner of NE Davis and NE 67<sup>th</sup> and state that it will make parking problematic.

*Staff response: A call to the Portland Bureau of Transportation’s 503-823-SAFE phone line could provide some guidance on ways to keep vehicles from parking so close to a driveway that they reduce visibility and make it difficult to back up. The issue of dog waste is addressed in the findings and house rules described below.*

## **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:** The Portland Zoning Code describes the characteristics of Household Living uses and specifically identifies ASTRs as one of the accessory uses of Household Living. However, for the purpose of this approval criterion, it is necessary to consider whether the function of the ASTR would cause the overall residential appearance and function to be significantly lessened due to its operation based on the two sub-criteria listed above.

Concerning the first sub-criterion, the applicant provided a map that shows no non-Household Living uses within a 400-foot radius around the site. A review of previous land use reviews in this vicinity also showed that there are no Type B ASTRs or Bed & Breakfasts (the previous Portland Zoning Code name for ASTRs). Based on this information, the area currently possesses a residential appearance and function and the location of an isolated ASTR would not further erode this character.

Concerning the second sub-criterion, the area contains a mixed of two and three-story multi-dwelling development, duplexes and single-dwelling residences. It is zoned with a mix of multi-dwelling and single-dwelling zones. The site is zoned R2 (Residential 2,000) which is a multi-dwelling zone that allows one unit per 2,000 square feet of site area. At 8,880 square feet, the site could contain up to 4 dwelling units. The intensity and scale of 4 dwelling units would be significantly more than that of a house where an ASTR operates. Furthermore and considering the intensity and scale of the Household Living uses in the area, the ASTR is also consistent with the surrounding Household Living uses.

It is important to note that the applicant will typically reside in one of the five bedrooms, generally the master bedroom. However, all five bedrooms may be rented if the applicant is out of town or because the master bedroom has two beds, it could be rented as a shared room.

Based on the information above, 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:** Lots in the vicinity of the site range in size from approximately 25,000 square feet to 4,000 square feet. The 8,880 square foot size of the site falls within this range; therefore, the site size is consistent with the surroundings.

The house on the site is two-stories. Homes and apartments in the vicinity range from 1-story to 3 stories in height. The building footprint is approximately 24 percent of the site size. This is comparable to other single-dwelling residences in the vicinity and significantly less than the 50 percent maximum building coverage allowed in the R2 zone.

The house on the site has a Spanish stucco architectural style. This architectural style is an anomaly in the vicinity; however it is not uncommon for Spanish stucco homes to be sprinkled throughout Portland's older neighborhoods. Therefore, the style is compatible because of this distinction. Furthermore, the home and landscaping are attractive and the distinct architectural style adds for additional visual interest in the vicinity. Additionally, no exterior alterations to the home are proposed as part of the ASTR request.

Side setbacks for the home are 7 feet on the east side and 5 feet on the west. The front and rear setbacks greatly exceed the minimums allowed in the R2 zone. The 5 and 7-foot setbacks are greater than or equal to the minimum in the R2 zone as well as in the R5 zone which makes up some of the surrounding vicinity. Therefore the setbacks are compatible with adjacent residential developments.

The front yard of the site is landscaped with bamboo, yucca plants, grass, mimosa trees. This landscaping complements the Spanish stucco architectural style of the home. The rear patio area includes bamboo, banana and palm trees and potted plants. Again, this landscaping complements the architectural style of the home. An uphill sloping embankment behind the rear patio contains larger maple, fir and cedar trees that provide ample separation and sound buffering between the home and the lot to the south. The amount and quality of landscaping at the site is compatible with adjacent residences in the vicinity.

The home is currently a duplex and ASTRs are not allowed in duplexes. The applicant has been issued a permit to convert the duplex to a house with an accessory dwelling unit. In order to ensure the existing duplex is converted to a house with an accessory dwelling unit, a condition of approval is added which states that permit #14-251138 RS must be finalized before the Type B ASTR can operate. An inspection to insure bedrooms meet building code and safety requirements is also required before the ASTR can operate with five bedrooms. Therefore, a condition of approval is necessary which requires a fee-paid inspection purchased from BDS to confirm the requirements of 33.207.050.B.4 are met.

With proposed conditions, 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:** The applicants are not proposing any physical changes to the house or lot to accommodate the ASTR. Therefore, the proposal will have no effect on differences in appearance or scale between the subject property and neighboring properties. 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 applicant has provided "House rules for guests and residents" which have a dual purpose of providing information to guests and residents and aiming to

reduce or eliminate any adverse impacts on the livability of nearby residential zoned lands (Exhibit A-5).

Several house rules address noise. One rule related titled "Patios" instructs guests to "Keep outside conversations at a normal level. No late night loud conversations please". A house rule titled "Disruptions" says "Rowdiness, group assembly or any type disruptive behavior to other guests or neighbors is not to be tolerated, inside or outside". Another house rule titled "Neighbors" instructs guests to "Be courteous to the neighbors and fellow guests". Another house rule titled "Quiet Time" states that "quiet time shall prevail between the hours of 10 PM and 8 AM. Please keep conversations at a normal level. No loud conversations, music or TV inside or outside the B&B". These house rules help set expectations that noise which impacts neighbors, is not acceptable. The dense landscaping at the site also helps contain and buffer noise from surrounding properties.

No changes to exterior lighting are proposed at this site. Existing exterior lighting is comparable to lighting at any home and therefore will not have significant adverse impacts for nearby residential zoned lands. It is important to note that a house rule titled "Electricity" instructs guests to "Be green and keep lights and heat off when not in use". Also, the dense landscaping on the site also restricts any glare from lights from passing to neighboring residential lots.

One of the items in the house rules relates to odors. The item titled "No Smoking" states that no smoking can occur within 25 feet of a neighbor's property and that no smoking is allowed on the patios.

Litter is addressed by four house rules. The first titled "No Littering" states "please keep garbage in its place". The second is under the "No Smoking" rule and requests that smokers dispose of their waste properly. The third titled "Garbage/Recycling" instructs residents on the different waste, recycling and compost bins. The fourth item titled "Pets" includes information about pet waste and states that it "must be picked up immediately onsite and within the neighborhood". This item also states that free pet waste bags are available at the home. This can further encourage the pick-up of pet waste.

In order to promote compliance with these house rules, two conditions of approval are necessary. The first condition states that house rules must be implemented, and must be forwarded to all guests prior to their stay and must be included in guest materials at the ASTR. The second condition states that the applicant must provide local points of contact for both the operator and an on-call back-up operator, including phone number and email address, to all property owners with property abutting or directly across the street from the subject site.

## 2. Privacy and safety issues.

**Findings:** Landscaping at the site screens the backyard/patio from the neighboring properties to the south, east and west and therefore protects privacy for those neighbors. E Burnside provides separation between the house and properties to the north which protects privacy. Given the proposed house rules about noise which include prohibitions on late night parties, rowdiness and disruptive behavior as well as instructions on keeping outside conversations at a normal level and quiet hours, staff finds that use of the site as a ASTR will not have a substantially greater impact on neighbors' privacy than could occur if the house were not used in this way.

No safety impacts are anticipated. The Fire Bureau has reviewed the proposal and responded with no concerns. The Police Bureau has reviewed the proposal and found that police services are adequate to serve the proposed use. The applicant has also submitted and will enforce house rules which will promote neighborly behavior and limit privacy impacts on neighbors.

Based on this information, 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, the City's Transportation System Plan (TSP) classifies E Burnside as a District Collector, a Transit Access street, a City Bikeway, a City Walkway, a Major Emergency Response Route, and a Community Corridor. District Collectors are intended to distribute traffic to streets of the same or lower classification. The use of the site as an Accessory Short-Term Rental is not in conflict with the classification of E Burnside.

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 (PBOT) submitted the following response:

##### 1. Street Capacity and Level of Service

The Institute of Transportation Engineers (ITE) does not publish a vehicle trip generation rate for bed & breakfast uses. Accordingly, the Motel category is being used to determine a reasonable worst-case scenario.

With up to five rooms available for rental, ITE Motel (320) category predicts average weekday vehicle trip ends at 5.63 trips per room. This rate assumes each room would be associated with a vehicle that left the site and returned approximately three times a day. Accordingly, the anticipated number of daily vehicle trips would be approximately 28 trips.

Per ITE estimates for detached single-family homes, the site would generate an average of 10 daily vehicle trips if the home operated as a traditional residential dwelling. It should be noted that the 10 daily trips the ITE predicts for single-family homes is not based on the total square footage or number of rooms in that residence, it is an average of all single-family detached units on a national level. However, it could be reasonably argued that larger single-family homes (five plus bedrooms) have the potential to generate more vehicle trips than a smaller home (two bedrooms).

Based upon the worst-case analysis of the request utilizing the motel trip rate, the proposed bed & breakfast use would generate a greater number of trips than a traditional single-family home. However, given the nature of the bed & breakfast operations, the typical travel time of vacationing tenants, and check-in/check-out times, trips associated with the proposed use will likely occur at times other than the residential AM/PM peak periods. Additionally, the anticipated 28 daily trips will not have any significant impact on the operation of nearby intersections or street capacity. No mitigation is needed.

##### 2. Access to Arterials

E Burnside is a District Collector and the subject site enjoys unobstructed access to arterials and the greater transportation system.

### 3. Connectivity

The subject site is located within an area where the street grid is reasonably intact. There are existing block and development patterns that preclude improvement upon the current connectivity at this time. PBOT has no concerns relative to connectivity in association with the proposed Conditional Use request.

### 4. Transit Availability

The site is well-served by transit facilities. Tri-Met Bus Line #20 provides frequent service with a stop directly across the street at E Burnside & NE 67<sup>th</sup> which travels westbound into downtown Portland.

### 5. On-Street Parking Impacts

The subject property has sufficient space to accommodate 4 on-site parking spaces. Under a reasonable worst-case scenario, each room could generate the need for one parking space. In order to evaluate existing on-street parking conditions and determine whether the area could accommodate any overflow on-street parking demands generated by the proposed use, the applicant provided an on-street parking survey.

The survey area included E Burnside (between NE 66<sup>th</sup> & NE Gilham); NE 66<sup>th</sup> (between E Burnside & NE Davis); NE Davis (between NE 66<sup>th</sup> & NE 67<sup>th</sup>); and NE 67<sup>th</sup> (between E Burnside & NE Davis). The applicant documented on-street parking conditions at four separate dates/times including Saturday, February 28th at about 10am; 2) Friday, February 27th at about 5pm; 3) Thursday, February 26th at about 8am; 4) Friday, February 27<sup>th</sup> at about 10pm. The applicant accounted for any parking restrictions, including existing driveways as well as the limitations to on-street parking on E Burnside during pro-time hours. The conditions were documented via date/time stamped photos.

The survey found that on average, during these peak demand times, that 64% of the on-street parking was available. PBOT does not consider an area heavily parked and in need of active parking management until the availability rate for on-street parking reaches 20% or less. Based upon the applicant's survey, adequate on-street parking exists to support the proposed use in addition to the existing uses in the area.

### 6. Access Restrictions

There are no access restrictions in the immediate area.

### 7. Neighborhood Impacts

With the relatively small increase in vehicle trips and the availability of on-street parking, the impacts to the neighborhood should be negligible.

### 8. Impacts on Pedestrian, Bicycle, and Transit Circulation

The proposed use will not negatively impact existing pedestrian, bicycle, or transit circulation. NE Davis St, located approximately 325-ft north of the site is a Neighborhood Greenway (Portland Bike/Walk Map) and there are existing sidewalks in the vicinity that provides access to transit facilities.

### 9. Safety for all Modes

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

### 10. Adequate Transportation Demand Management Strategies

The site is well-served by frequent transit service. The applicant has indicated they will provide guests with transit/pedestrian/bicycle route maps, transit schedules, as

well as complimentary Tri-Met bus tickets while staying at the facility. Additionally, the applicant will have two bicycles on-site available for guests to rent. Implementation of these TDM measures will be a required condition of approval.

The house rules include a rule regarding parking, it states that “parking onsite is free for guests and residents and should be prioritized”. In order to ensure that onsite parking is the first option considered by guests and residents, a condition of approval is necessary. The condition states that parking onsite must be prioritized. The house rules also include information about car-free stays at the ASTR stating that the house has good access to frequent transit service which allows guests to stay car-free.

Based on this information and with the condition of approval, 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 Bureau of Environmental Services and the Water Bureau reviewed the proposal and responded with no concerns. Police and fire protection services are available and capable of serving the proposed use. The Portland Police Bureau provided recommendations regarding landscaping maintenance and the visibility of the street address marker, but had no objection 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 outside the boundaries any adopted area plan. 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.

The following development standards apply to Type B Accessory Short-Term Rentals:

### 33.207.050 Type B Accessory Short-Term Rentals

#### A. Use-related regulations.

1. Accessory use. A Type B accessory short-term rental must be accessory to a Household Living use on a site. This means that a resident must occupy the dwelling unit for at least 270 days during each calendar year, and unless allowed by Paragraph .050.B.2 or .050.B.3, the bedrooms rented to guests must be within the dwelling unit that the resident occupies.
2. Conditional use review. A Type B accessory short-term rental requires a conditional use review. A Type B accessory short-term rental that proposes commercial meetings is processed through a Type III procedure. All other Type B accessory short-term rentals are processed through a Type II procedure. The approval criteria are stated in 33.815.105, Institutional and other uses in R zones.
3. Allowed structure type. A Type B accessory short-term rental is allowed only in the following residential structure types:

- a. House;
- b. Attached house;
- c. Duplex;
- d. Manufactured home on its own lot; and
- e. Accessory dwelling unit.

**Staff Response:** The applicant has applied for a Type II Conditional Use approval to operate a Type B ASTR in an existing house with an accessory dwelling unit. No commercial meetings are proposed. The applicant is the owner of the property and states he will occupy the house at least 270 days per year as his primary residence. The Type A ASTR permit documented that this is the applicant's primary residence.

## **B. Standards.**

1. Maximum size. Type B accessory short-term rental is limited to renting a maximum of 5 bedrooms to overnight guests. In the single-dwelling zones, a Type B accessory short-term rental over this size limit is prohibited.

**Staff Response:** The proposal is to rent a maximum of five bedrooms at a time. Typically, the applicant will occupy one of the five bedrooms, but could rent all five if he is out of town or rent the master bedroom as a shared sleeping situation since it has an extra bed.

2. Accessory dwelling units. On sites with an accessory dwelling unit, the resident can live in the primary or accessory dwelling unit and rent bedrooms in either dwelling unit.

**Staff Response:** The applicant plans to live in the house and rent bedrooms in the house and the accessory dwelling unit.

3. Detached accessory structures. A bedroom in a detached accessory structure can be rented to overnight guests, and counts toward the maximum size limit.

**Staff Response:** There are no detached accessory structures on the site.

4. Bedroom requirements. The Bureau of Development Services must verify that each bedroom to be rented to overnight guests:
  - a. Met the building code requirements for a sleeping room at the time it was created or converted;
  - b. Has a smoke detector that is interconnected with a smoke detector in an adjacent hallway; and
  - c. Is located on the floor of a dwelling unit equipped with a functioning carbon monoxide alarm. If the dwelling unit does not have a carbon monoxide source, then a carbon monoxide alarm is not required.

**Staff Response:** A condition of approval requires the applicant to obtain an inspection to verify these requirements are met.

5. Number of residents and overnight guests. The total number of residents and overnight guests occupying a dwelling unit with a Type B accessory short-term rental may be limited as part of a conditional use approval.

**Staff Response:** No condition of approval is included to limit the number of guests as the number of bedrooms will serve to limit the number of guests.

6. Employees. Nonresident employees for activities such as booking rooms and food preparation may be 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 or house cleaning, is allowed. 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 permanent non-resident employees other than the type of employees commonly associated with a single-dwelling residence such as landscaper are proposed (Exhibit A-3).

7. Services to guests and visitors. Serving alcohol and food to guests and visitors is allowed and may be subject to other county or state requirements.

**Staff Response:** The applicants do not intend to serve food or alcohol to guests.

8. Commercial meetings.
  - a. 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 are regulated as follows:
    - (1) In the single-dwelling zones, commercial meetings are prohibited;
    - (2) In all other zones, up to 24 commercial meetings per year may be approved 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.
  - b. Historic landmarks. A historic landmark that receives special assessment from the State, may be open to the public for 4 hours one day each year. This does not count as a commercial meeting.
  - c. Meeting log. The operator must log the dates of all commercial meetings held, and the number of visitors or guests at each event. The log must be available for inspection by City staff upon request.

**Staff Response:** The applicants do not propose to hold commercial meetings at the site. As the site is within a single-dwelling residential zone, commercial meetings are prohibited.

9. Appearance. Residential structures may be remodeled for the development of an accessory short-term rental. However, structural alterations may not be made that 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 remodeling that will make the structure appear less like a residence is proposed. Two new parking spaces have been added to site and meet the standards for single-dwelling residences.

10. A Type B accessory home occupation is prohibited with a Type B accessory short-term rental.

**Staff Response:** No Type B accessory home occupation is proposed.

## CONCLUSIONS

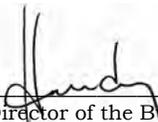
The applicant proposes to convert the existing duplex to a single-dwelling residence with an accessory dwelling unit and operate a Type B ASTR. There are no non-residential uses in the vicinity and therefore the ASTR will not lessen the residential appearance or function of the area. The site, home and landscaping are physically compatible with adjacent residential development. The applicant submitted house rules that ensure noise, glare from lights, late night operations, odors, and litter do not pose significant adverse impacts on the livability of the nearby residential zoned lands. The transportation system is capable of supporting the proposed use and adequate on-street parking is available in the neighborhood if guests aren't able to park in the preferred onsite or on E Burnside Street locations. The proposal meets the development standards for Type B ASTR. Conditions of approval ensure that the ASTR will remain compliant with the findings in this decision. The proposal meets the appropriate approval criteria and should be approved.

## ADMINISTRATIVE DECISION

Approval of a Type B Accessory Short-Term Rental with 5 bedrooms, per the approved site plans, Exhibits C-1 through C-2 and house rules (Exhibit A-5), signed and dated April 16, 2015, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through G) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans for permit #14-251138 RS. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 14-237773 CU." All requirements must be written on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Before the Type B ASTR can operate, a fee-paid inspection must be purchased from BDS to confirm the requirements of 33.207.050.B.4 are met.
- C. Permit #14-251138 RS must be finalized before the Type B ASTR can operate.
- D. The house rules for guests and residents must be implemented and must be sent to guests prior to their arrival and must be included in guest materials at the ASTR.
- E. Onsite parking for guests and residents must be prioritized over parking on residential streets.
- F. The Transportation Demand Management strategies must be implemented.
- G. The applicant must provide local points of contact for both the operator and an on-call back-up operator, including phone number and email address, to all property owners with property abutting or directly across the street from the subject site.

**Staff Planner: Matt Wickstrom**

**Decision rendered by:**  **on April 16, 2015**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: April 20, 2015**

**About this Decision.** This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for

information about permits.

**Procedural Information.** The application for this land use review was submitted on November 14, 2014, and was determined to be complete on **January 22, 2015**.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on November 14, 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, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: May 22, 2015**.

**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 May 5, 2015** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> 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](http://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 **May 6, 2015 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034. For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

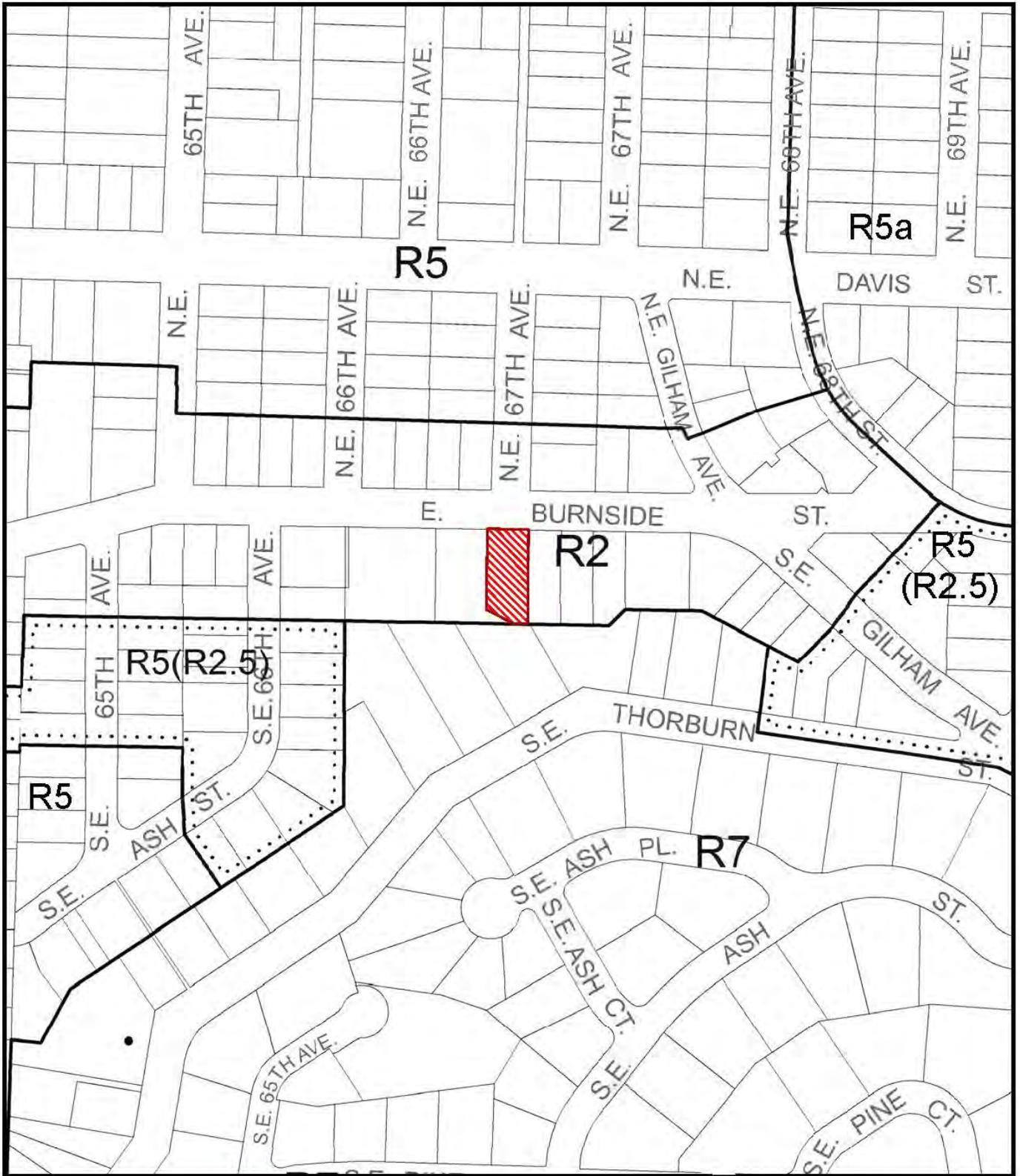
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
  - 1. Incomplete Letter from Matt Wickstrom to Shane Stark dated December 12, 2015
  - 2. Non-Residential Map received March 4, 2015
  - 3. Transportation System Evaluation Factors and Parking Study received March 13, 2015
  - 4. Email from Shane Stark to Matt Wickstrom dated March 26, 2015
  - 5. House rules for guests and residents received April 15, 2015 (attached)
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Elevation Drawings (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Water Bureau
  - 2. Bureau of Environmental Services
  - 3. Portland Bureau of Transportation
  - 4. Police Bureau
  - 5. Summary sheet of Bureau responses
- F. Correspondence:
  - 1. Lisa Angus & Kari Green, February 9, 2015, opposition to proposal
  - 2. James Kendall, February 12, 2015, opposition to proposal
  - 3. Mr. & Mrs. Donald Nelson, February 15, 2015, opposition to proposal

**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



File No. LU 14-237773 CU  
 1/4 Section 3037  
 Scale 1 inch = 200 feet  
 State\_Id 1N2E32CC 300  
 Exhibit B (Nov 17, 2014)

LOT AREA (.20 acre) . . . . .	8712.00 SQ FT
<b>IMPERVIOUS AREA</b>	
Driveway . . . . .	773.60 SQ FT
Parking . . . . .	324.00 SQ FT
Patio: Front . . . . .	156.02 SQ FT
Back . . . . .	361.16 SQ FT
Roof area: (incl. overhang) . . . . .	2240.31 SQ FT
<b>TOTAL . . . . .</b>	<b>3855.09 SQ FT</b>

**BUILDING COVERAGE**  
Building Footprint . . . . . 2048.02 SQ FT

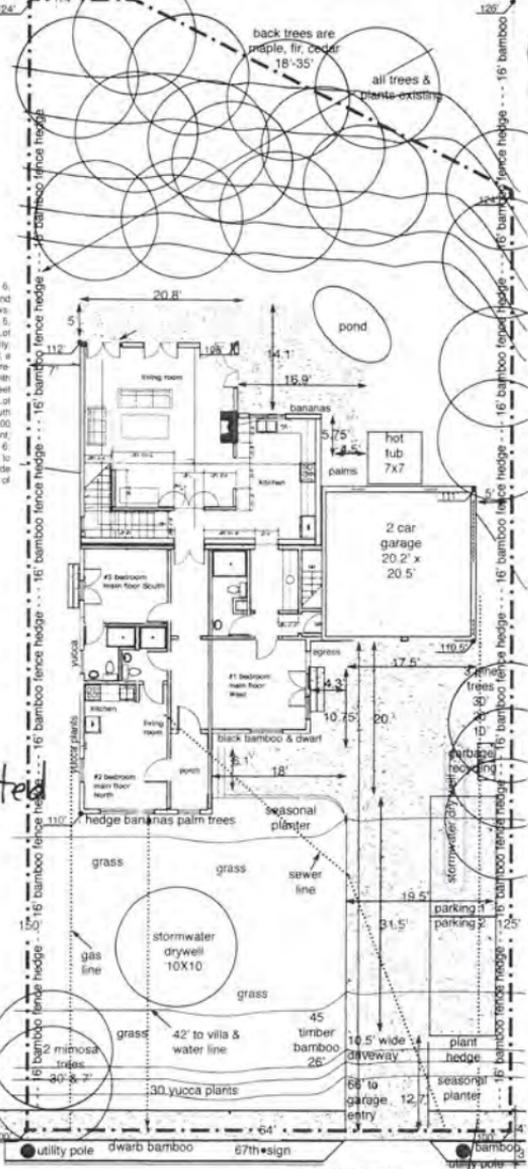
**LEGAL DESCRIPTION**  
R704801690 A portion of Lots 5 and 6, Block 6, Ridgecrest, in the City of Portland, County of Multnomah and State of Oregon described as follows: Beginning at the Northwest corner of Lot 4, Block 6, Ridgecrest; thence Southwesterly along the West boundary of Lot 4, Block 6, a distance of 5.00 feet to a point; thence Easterly along the Southern right of way line of East Burnside Street, a distance of 80.00 feet to the true point of beginning of the hereinafter described tract; thence Southwesterly along a line parallel with the East boundary of Lot 5, Block 6, a distance of 125.00 feet to a point lying 20.00 feet North of the South boundary of Lot 5, Block 6; thence Southwesterly to a point lying on the South boundary of Lot 6, Block 6, Ridgecrest; thence Easterly to the Southeast corner of Lot 6, Block 6; thence Northerly along the East boundary of Lot 6, Block 6, to a point lying on the Southern right of way line of East Burnside Street; thence West, along said right of way line, to the point of beginning.

**PROJECT NAME**  
Villa Shane Stark IV

**PROJECT ADDRESS**  
6700-6702 E. Burnside St.  
Portland, OR 97215-1360

4 bedrooms  
on main  
floor (1 located  
in an  
accessory  
dwelling  
unit)  
1 bedroom  
in basement

Conditional  
Use  
proposal  
for a  
5 bedroom  
accessory  
short-term  
rental  
(Bed +  
Breakfast)



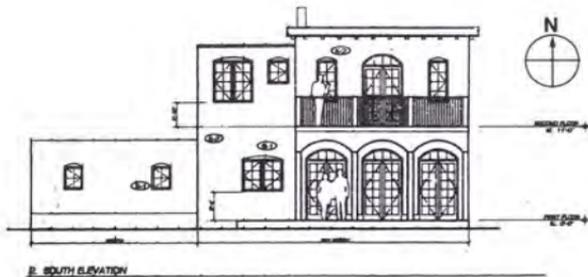
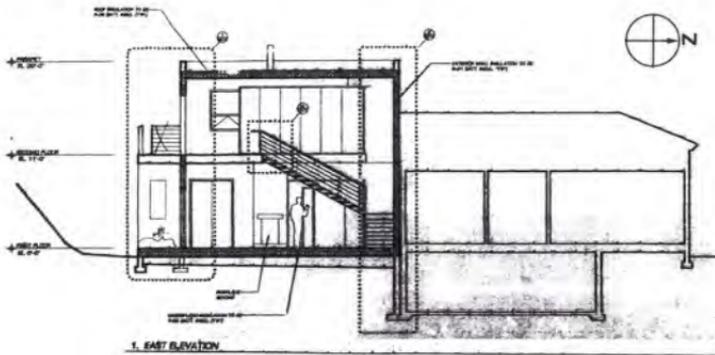
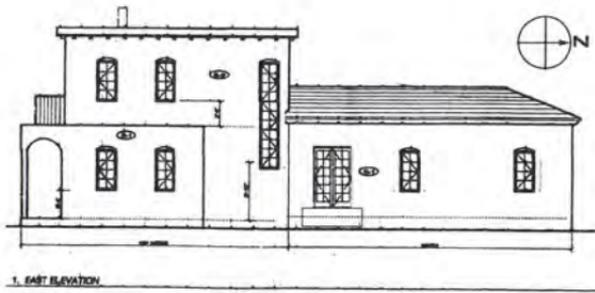
**East Burnside St**  
**FLOOR PLAN**  
Utility & Landscape Plan  
SCALE 1" = 10'  
Underground Utilities  
electricity  
telephone  
cable

LOT AREA: 20 acre  
8712.00 SQ FT

LEGAL DESCRIPTION  
R704801690

PROJECT NAME  
Villa Shane Stark IV

PROJECT ADDRESS  
6700-6702 E. Burnside St.  
Portland, OR 97215-1360



**ELEVATION  
PLAN**  
SCALE 1" = 10'

LU 14-237773 CU

Exhibit C-2

# House rules for guests and residents

## Here are some commonly asked questions & information:

- **Cable and WiFi** WiFi and cable TV are free for guests and residents.
- **Communal Space** Please keep the communal space clean, picked up and as is.
- **Car Free** Take the light rail, cab or shuttle to the B&B. It's a great place to stay without a car because the house is served by several bus lines that go downtown and connect to the light rail system.
- **Quiet Time** Quiet time shall prevail between the hours of 10pm to 8am. Please keep conversations at a normal level. No loud conversations, music or TV inside or outside the B&B.
- **Parking** Parking onsite is free for guests and residents and should be prioritized. Offsite parking on East Burnside is free all day Saturday and Sunday. On Monday-Friday, please note parking signs. (no parking 7-9am facing downtown/West and no parking 4-6pm facing East)
- **Electricity** Be green and keep lights and heat off when not in use.
- **Garbage/Recycling** Recycling is outside for guests and residents.  
Yellow: Glass, Blue: Paper, Metal, Cans, Green: Food Wastes.
- **Patios** Keep outside conversations at a normal level. No late night loud conversations please. No smoking on the patios.
- **No Smoking** No smoking inside or within 25' from a door/window or neighbor please. Dispose of your waste properly.
- **Washer and Dryer** Hours are noon-6pm. Contact us for access key.
- **No Littering** Please keep garbage in its place.
- **No Illegal Activity** Obey all laws while on the property
- **Pets** Pets must be leashed and in control at all times while in the Communal Space. No aggressive breeds are allowed: example pitbulls, rottweilers etc. Pet waste must be picked up immediately onsite and within the neighborhood. Free pet waste bags are in the grass area.
- **Disruptions** Rowdiness, group assembly or any type of disruptive behavior to other guests and neighbors is not to be tolerated, inside or outside.
- **Neighbors** Be courteous to the neighbors and fellow guests!