



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**  
FROM CONCEPT TO CONSTRUCTION

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**Date:** November 2, 2018  
**To:** Interested Person  
**From:** Lauren Russell, Land Use Services  
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## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has **approved** a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 18-127565 CU**

#### **GENERAL INFORMATION**

**Applicant:** Kendra Shippy | DMS Architects  
2325 NE 19th Ave | Portland, OR 97212

**Owner:** Erin Grey Crowell  
618 Dimmick Dr | Los Angeles, CA 90065

**Site Address:** 81 NE IVY ST

**Legal Description:** BLOCK 6 W 40' OF LOT 11&12, WILLIAMS AVE ADD  
**Tax Account No.:** R916401490  
**State ID No.:** 1N1E27AA 03500  
**Quarter Section:** 2730  
**Neighborhood:** Eliot, contact at [lutcchair@eliotneighborhood.org](mailto:lutcchair@eliotneighborhood.org).  
**Business District:** Soul District Business Association, contact at [info@nnebaportland.org](mailto:info@nnebaportland.org)  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5030.

**Plan District:** Albina Community  
**Other Designations:** Contributing Structure within the Eliot Conservation District  
**Zoning:** R2a – Multi-Dwelling Residential 2,000, Alternative Design Density Overlay

**Case Type:** CU – Conditional Use Review  
**Procedure:** Type II, an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

The applicant, on behalf of the owner, requests Conditional Use approval to operate a Type B Accessory Short-Term Rental (ASTR) facility within the existing 4-bedroom house on this site. No exterior alterations to the house or site are proposed as part of this review. The owner will be the full-time resident of the house and will serve as the operator managing the ASTR operation. The applicant proposes to rent 4 bedrooms for the ASTR operation to one group at a time no larger than 8 adults and 4 children under the age of 12 for a maximum number of 12 guests. The full-time resident will reside in one of the bedrooms in the house while the detached accessory dwelling unit (ADU) is under construction and once constructed, the full-time resident will reside in the ADU. No outside employees, food or beverage service, or commercial events are proposed. The proposed house rules would require quiet hours between 9:30 PM and 7:00 AM.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are: Zoning Code Section 33.815.105.A-E (Conditional Use Review).

**ANALYSIS**

**Site and Vicinity:** The subject site is a 4,200 square foot lot located on the north side of NE Ivy Street between N Williams Avenue and NE Rodney Avenue. The site is currently developed with a one-and-a-half-story single-dwelling residence and a small detached shed at the northeast corner of the lot. The owner is in the process of constructing a new one-story detached ADU to the rear of the house. Adjacent properties are similarly developed with one- to two-story single-dwelling residences or attached houses, some with attached or detached accessory structures such as garages. Dense mixed-use development is located along the N Williams Avenue corridor, which is one block to the west.

**Zoning:** Although the subject site's zoning changed to R2.5a on May 24, 2018, at the time this application was submitted, the subject site was zoned R2a. Therefore, this application is subject to the R2a zoning standards and the zoning code in affect prior to May 24, 2018.

The R2 zone is one of the City's multi-dwelling zones, which are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing. The development standards work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The Alternative Design Density (a) overlay zone is an optional overlay zone that provides opportunities for increased density in limited situations, provided that additional design compatibility requirements are met for the project. The overlay zone does not apply to this proposal.

The Albina Community plan district implements the Albina Community Plan. The plan district's provisions are intended to ensure that new higher density commercial and industrial developments do not overwhelm nearby residential areas. The provisions of the plan district do not apply to this proposal.

The Eliot Conservation District is an area with common historic values significant to the neighborhood and seeks to contribute to the preservation of significant features of Portland's development history. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to historic resource review. Because no exterior changes are proposed, the provisions of this conservation district do not apply to this proposal.

**Land Use History:** City records indicate that prior land use reviews include the following:

- LU 17-289172 AD: Approval of an Adjustment to reduce the required side setback from the west property line from 5 feet to 3 feet for the ADU building wall and from 4 feet to 2 feet for the eave (2017).

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed June 29, 2018. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (BES) originally responded that the applicant must disconnect from the existing party sewer and build a new private lateral to the combined sewer in NE Ivy Street before BES could issue a recommendation of approval of the conditional use (Exhibit E-1). In response to the applicant completing this sewer connection, BES issued an addendum stating no further objections to approval of the conditional use (Exhibit E-2);
- Bureau of Transportation Development Review (PBOT) responded with no objections to the requested conditional use subject to conditions of approval related to transportation demand management strategies (Exhibit E-3);
- Water Bureau responded with no concerns (Exhibit E-4);
- Fire Bureau responded with no concerns (Exhibit E-5);
- Police Bureau responded that the Police Bureau has reviewed this land use case and has no concerns with the proposal (Exhibit E-6);
- Site Development Section of BDS responded with no concerns (Exhibit E-7);

- Bureau of Parks-Forestry Division responded with no concerns (Exhibit E-8); and
- Life Safety Review Section responded with no objections to the approval of this proposal (Exhibit E-9).

**Neighborhood Review:** Two written responses have been received from notified neighbors in response to the “Notice of Proposal.” The first respondent submitted an anonymous letter with a return address of “NE Ivy Street” that expressed opposition to the proposal because the owner does not intend to live at the subject property, the site has no off-street parking and existing tenants already put pressure on the on-street parking supply, and the subject house is in disrepair. The second respondent, who lives across the street from the subject site, wrote an email that expressed opposition to the proposal because adding a 4-bedroom ASTR to the existing single-dwelling house with ADU will result in too much density that will affect the neighbors’ quality of life and property values as well as create more demand for the on-street parking supply that has already been affected by nearby new apartment buildings.

*Staff response: The residency requirement is discussed in the findings for Approval Criterion A, below. Quality of life issues such as noise, late-night activities, and privacy are discussed in the findings for Approval Criterion C. The impact on the on-street parking supply is discussed in the findings for Approval Criterion D. The maintenance of the existing house and property values are not part of the applicable approval criteria and therefore were not able to be considered.*

## ZONING CODE APPROVAL CRITERIA

### 33.815.010 Purpose of Conditional Use Reviews

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

**Findings:** The “residential area” for purpose of this criterion is the residentially-zoned land found within approximately 400 feet of the site. The 400-foot radius is the same distance used to notice recognized organizations of the proposal and it is the households within this radius that are most likely to be impacted by the proposal. The boundaries of this area (Figure 1, below) are about halfway between NE Beech Street and NE Fremont Street to the north, about halfway between NE Rodney Avenue and NE Martin Luther King Jr Boulevard to the east, about halfway between NE Cook Street and NE Fargo Street to the south, and about one property in from N Williams Avenue to the west. All properties are zoned residential, the majority of which are zoned mid to high-density multi-dwelling residential (R2, R1, and RX). The properties north of NE Fremont Street and west of NE Mallory Avenue are zoned high-density single-dwelling residential (R2.5).

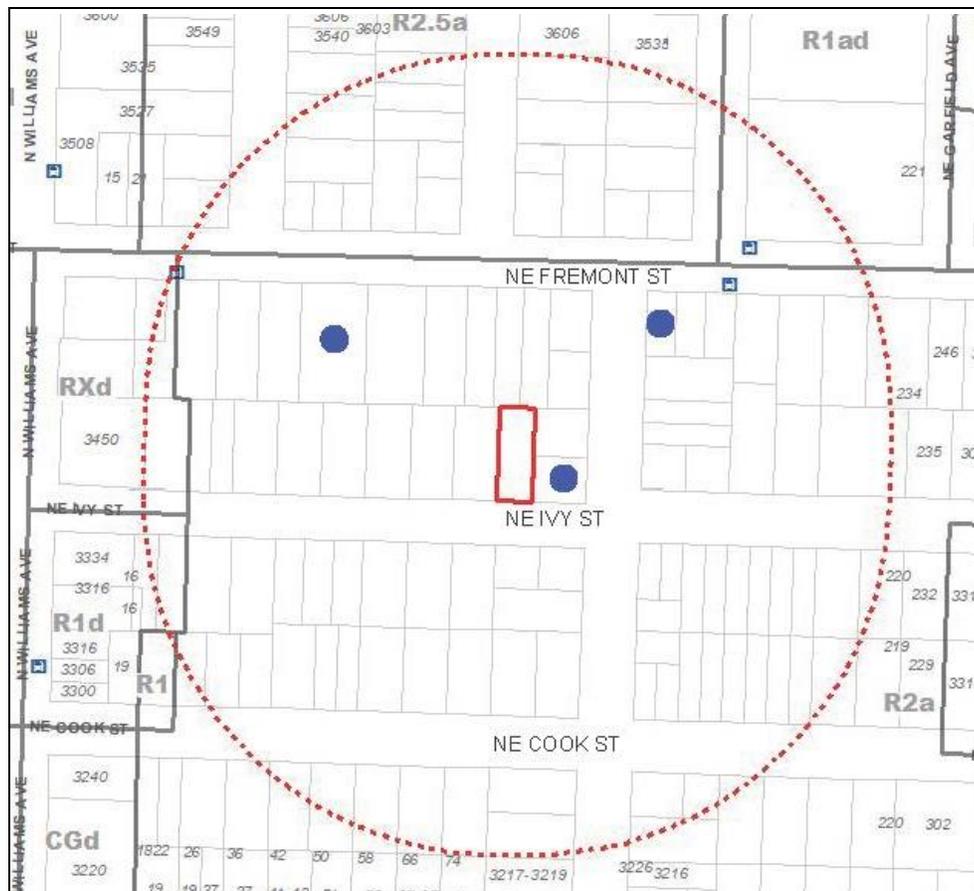


Figure 1: Residential Area

There are no evident non-residential uses in the defined residential area. There are three Type A ASTR permits (the solid circles in Figure 1) issued in the defined residential area: a two-bedroom rental at 3405 NE Rodney Avenue (17-183262 HO), a one-bedroom rental at 52 NE Fremont Street (14-251585 HO), and a two-bedroom rental at 130 NE Fremont Street (15-249413 HO). Generally, Type A ASTRs, which are accessory to the Household Living use onsite and limited to a maximum of two bedrooms for ASTR guests, are largely residential in character and not expected to generate offsite impacts or lessen the appearance or functionality of the residential area.

For these reasons, the proposed ASTR will not be operating in an environment where the residential area is already at risk of losing its residential appearance or function due to a high proportion of uses that are not in the Household Living category. This proposal will not change the residential appearance of the area because no changes are proposed to the existing house. It will not compromise the residential function of the area because potential impacts will be limited as demonstrated in the other Approval Criteria, below. No other Type B ASTRs or Bed and Breakfast facilities have been granted a Conditional Use in the defined residential area.

Therefore, 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 based on the number, size, and location of other uses not in the Household Living category in the residential area. This criterion is met.

2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

**Findings:** The owner of the subject site has designated a consultant as the applicant for the purpose of representing her throughout this land use review. The applicant is requesting to use up to four bedrooms located within the subject house as an ASTR. The owner has indicated that she will reside at the property at least 270 days per year, as required by the

regulations, initially in one of the four bedrooms on the upper level of the house while the ADU is under construction. The owner will then reside in the ADU. The applicant would like to rent out four bedrooms to just one group at a time up to eight adults and four children under the age of 12 for a total of 12 guests. The owner will also serve as the operator of the ASTR.

The applicant provided a list of house rules, which include:

- Check in between 3:00 PM and 10:00 PM and check out by 11:00 AM;
- No loud noise or music between 9:30 PM and 7:00 AM;
- Guests access the house using a coded lockbox located on the front porch;
- Guest parking available on the street;
- No pets;
- No smoking or vaping; and
- No parties or events.

The applicant has indicated that a gardener comes to the site every two weeks for yard maintenance and that a cleaner comes to the site two to four times per month or as needed. No other hired non-resident service employees will be present. The applicant does not intend to provide any services to guests and will not serve food or alcoholic beverages. Additionally, the applicant does not intend to host any commercial meetings such as banquets, luncheons, or weddings.

In order to ensure that the intensity and scale of the proposed use will not significantly lessen the overall residential appearance and function of the residential area, several conditions of approval are necessary. A condition of approval will require the implementation of the house rules for ASTR guests, which include establishing quiet hours, and prohibiting smoking and pets. Another condition will not allow any commercial meetings. Lastly, a condition will limit the rental to one group at a time and limit the number of guests to two per bedroom, which will allow for up to 6 guests while the ADU is still under construction and the rental is limited to 3 of the bedrooms in the house, and will allow for up to 8 guests once the ADU receives final inspection and the rental includes all 4 bedrooms in the house. This guest limitation will limit the intensity and scale of the proposed ASTR.

With the conditions of approval implementing the house rules, not allowing commercial meetings, and limiting the number of guests, 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 based on the intensity and scale of the proposed use. This criterion is met.

## **B. Physical compatibility.**

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

**Findings:** City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s.” Because no scenic resources are mapped on the subject site, 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, tree preservation and landscaping; or

**Findings:** No changes are proposed to the exterior of the existing house as part of this proposal. The site appearance, setbacks, landscaping, and other site features will remain the same as they are today. The ADU that is under construction has been reviewed under separate land use reviews and building permits (LU 17-289172 AD and 18-127717 RS). No new outdoor gathering spaces will be added to the site. Therefore, the site will retain the appearance of a single-dwelling residence, so it will be compatible with adjacent residential developments. This criterion is met.

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

**Findings:** Because the site will retain the appearance of a single-family residence, consistent with adjacent and nearby residential developments, there are no differences in appearance or scale that require mitigation. This criterion is met.

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

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

**Findings:** The most likely impacts of the ASTR use would be noisy guests either inside or outside the house late at night, which could affect the livability of neighbors. There are two existing covered porches that could serve as outdoor gathering spaces, one at the front of the house and one at the rear, though these porches are not located within any required setbacks. To address this concern, the applicant has proposed house rules that include quiet hours, specifically no loud noise or music, between 9:30 PM and 7:00 AM.

The ASTR use must be in compliance with City Title 18, Noise Control, which sets limits on sound levels that impact residential properties. Section 18.12.020.B addresses permissible levels of sound producing and reproducing equipment. The following activities are in violation of Title 18: operating or permitting the use or operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or operating or permitting the operating or use of any such device between the hours of 10:00 PM and 7:00 AM so as to be plainly audible within any dwelling unit which is not the source of the sound.

To alert guests of existing noise regulations and to help ensure that the house rules are understood by all parties and are followed, a condition of approval will require that “quiet hours” house rule must include the above stated limitations on the use of sound producing and reproducing equipment. The house rules must be included in all advertising for the ASTR and must be posted in a visible location within the ASTR.

No new outdoor lighting is proposed on the site. The house rules include the prohibition of smoking on the site by ASTR guests, which should limit potential odor impacts on neighboring properties. The house rules also include information for guests about disposing of garage and recyclables and a gardener and cleaner come to the house regularly, which should limit the potential impact of litter.

Another condition of approval will require the applicant to provide on an annual basis to contact information to the Eliot Neighborhood Association and abutting residential neighbors and to those across the street so that any nuisance issues that may arise can be resolved quickly. With these conditions of approval, the proposal will not have significant adverse impacts on the livability of nearby residential zoned lands due to noise, glare from lights, late-night operations, odors, or litter. This criterion is met.

2. Privacy and safety issues.

**Findings:** The existing house is located on the southern half of the site, closest to the street, and outside of all required setbacks, which helps limit potential privacy impacts on the abutting residences. The house is accessed from a main entrance facing NE Ivy Street. The two existing covered porches could serve as outdoor gathering spaces, though they are not located within any required setbacks, which should also limit privacy impacts on the neighbors. The existing six-foot high, fully sight-obscuring fence around the rear yard provides additional screening and a condition of approval will require that the fence is maintained.

Routine safety issues of smoke detectors, carbon monoxide alarms, and egress issues will be addressed through a condition of approval requiring a fee-paid inspection for these items prior to the operation of the ASTR use.

For these reasons and with the conditions of approval to maintain a six-foot high, fully sight-obscuring fence around the rear yard and for the fee-paid inspection, the proposal will have no significant adverse impacts on the livability of nearby residential zoned lands due to privacy and safety issues. This criterion is met.

**D. Public services.**

1. The proposed use is in conformance with the street designations of the Transportation Element of the Comprehensive Plan;

**Findings:** The Development Review Section of Portland Transportation (Exhibit E-3) has reviewed the proposal for conformance with street designations and provided the following information:

The City's Transportation System Plan (TSP) classifies the abutting right-of-way (ROW) as follows:

Street Name	Traffic	Transit	Bicycle	Pedestrian	Freight	Emergency Response	Street Design
NE Ivy Street	Local Service	Local Service	Local Service	Pedestrian District	Local Service	Minor	Local Service

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 proposed accessory short-term rental (ASTR) is supportive of the designations of the adjacent street. The development of the site with an ASTR will not impact the distribution of local traffic throughout the area. This criterion is met.

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

**Findings:** The Development Review Section of Portland Transportation (Exhibit E-3) has reviewed the proposal and provided the following information regarding the transportation system:

The applicant provided a transportation study (TIS) provided by Lancaster Engineering, dated May 25, 2018, that addressed the transportation approval criteria. PBOT has reviewed the submitted TIS, as well as neighborhood letters that raised parking availability as a concern. PBOT addresses parking availability below under "On-Street Parking Impacts."

#### Street Capacity/Level of Service

The TIS estimated the number of vehicle trips generated by the proposed development using the manual *Trip Generation*, published by the Institute of Transportation Engineers (ITE). Specifically, the TIS used category #320 Motel and #210 Single-Family Detached Housing to estimate the expected number of trips to be generated by the proposed development. The TIS estimated that the proposed development will generate 22 additional daily trips and 2 additional trips during the morning and evening peak hours.

The TIS evaluated four nearby intersections. Any services that may be provided to operate an ASTR – such as landscaping, regular maintenance, or cleaning – will be consistent with a typical single-family home and are not expected to occur during peak hours. The TIS states "based on the observations and analysis, the study intersections meet City of Portland's operational standards and are capable of safely supporting the existing uses as well as the proposed conditional use." The TIS recommends no capacity or level of service mitigations and PBOT concurs.

#### Access to Arterials

The proposed ASTR site is fewer than 300 feet from NE Fremont Street, 500 feet from N Williams Avenue, approximately 750 feet from NE Martin Luther King Jr Boulevard, and less than a mile from an entry ramp to Interstate 5. It is therefore in close proximity to arterials and therefore connected to the City's broader transportation system. The site is within a gridded street network that provides convenient vehicle access to arterials.

#### Connectivity

The proposed development is in an area with established block patterns and within walking distance of destinations including a grocery store at N Williams Avenue and NE Fremont Street and restaurants on N Williams Avenue. The site is within close proximity to bikeways including the N Williams Avenue/N Vancouver Avenue couplet that provides access to Portland's downtown core. Bollards exist at the intersection of NE Ivy Street and NE Rodney Avenue that prevent traffic from

crossing near the proposed development. PBOT has no concerns relative to connectivity and this proposed Conditional Use request.

#### Transit Availability

The proposed development is within close proximity of bus transit routes and stops for the Number 4 (approximately 500 feet from the proposed ASTR), Number 6 (approximately 750 feet), and the Number 44 and 24 (approximately 300 feet) bus lines. The TIS notes that “there are continuous sidewalks in place between the site and bus stops nearest to the site and marked crossings are available across N Williams Avenue, NE Fremont Street, and NE Martin Luther King Jr Boulevard.” The area provides sufficient transit facilities and bus stops to serve existing and proposed development.

#### On-Street Parking Impacts

The applicant addressed parking demand and availability in a parking study within the TIS submitted. That study conducted observations of on-street parking availability in a nearby area within a few blocks of the proposed development during what the study assessed are peak parking hours – late evening and early morning. The parking study showed that the existing on-street parking area is currently 82% occupied and showed that the estimated demand for on-street parking to be 3 additional on-street spaces. Given the estimated demand, the study showed on-street utilization of parking to be 84%. PBOT considers 80% utilization to be approaching full and 85% utilization to be full. Therefore, the impacts of the proposed use on available on-street parking are estimated to be approaching full. The TIS noted that NE Ivy Street between NE Rodney Avenue and NE Martin Luther King Jr Boulevard, which is less than half a block from the proposed development, was 59% full, while parking on NE Ivy Street between N Williams Avenue and NE Rodney Avenue and on NE Rodney Avenue between NE Ivy Street and NE Cook Street was 100% full. Therefore, PBOT requires a condition of approval that ASTR guests be advised that they may access on-street parking from NE Martin Luther King Jr Boulevard and NE Fremont Street more easily than parking on the subject frontage, as part of the Transportation Demand Management Plan.

#### Access Restrictions

The TIS states that bollards exist at the intersection of NE Ivy Street and NE Rodney Avenue that prevent auto traffic from crossing near the proposed development and that NE Cook Street east of N Williams Avenue is restricted to northbound right-turning vehicles. PBOT suggests no further access restrictions and has no concerns related to access, concurring with the TIS that the proposed use will “result in neither high volumes nor heavy vehicle traffic” and that “access is adequate for both the existing and proposed conditional use.”

#### Adequate Transportation Demand Management Strategies

The applicant provided a Transportation Demand Management Plan by Lancaster Engineering dated May 25, 2018. That plan outlined strategies to be implemented at the site, including on-site bicycle parking, information and maps showing popular destinations and amenities, information about bicycle rental and car share, and providing transit schedules and maps. As a condition of Conditional Use Permit approval, the applicant shall maintain a current and active Transportation Demand Management Plan, as proposed for this land use review, and amended to provide the information to ASTR guests within a notebook or a written document online.

#### Neighborhood Impacts and Impacts on Pedestrian, Bicycle, and Transit Circulation

The development site is within an area zoned for residential use and is near areas zoned for commercial use on N Williams Avenue, N Vancouver Avenue, NE Fremont Street, and NE Martin Luther King Jr Boulevard. The vicinity of the proposed development is expected to be able to meet the demand for three additional parking spaces generated by the proposed use. The proposed use keeps with the residential character of the surrounding neighborhood and will have minimal impacts on the bicycle and pedestrian systems. As such, staff finds that the proposed use will be able to be incorporated into the existing development pattern in the area with minimal impacts to the neighborhood.

#### Safety for All Modes

The proposed four-bedroom ASTR with one accessory dwelling unit is anticipated to have low daily trip generation. The TIS states “based on observation of the intersections in the site vicinity as well as reported crash data, no crash patterns or significant safety deficiencies were identified at any of the study intersections.” Improved streets in the immediate vicinity have sidewalks with curbs that provide safe pedestrian mobility and Local Service Streets that access bikeways provide safe bicycle mobility. The proposed development will not significantly impact safety for any mode.

With the conditions of approval to advise ASTR guests that they may access on-street parking on NE Ivy Street between NE Rodney Avenue and NE Martin Luther King Jr Boulevard via NE Martin Luther King Jr Boulevard and NE Fremont Street more easily than parking on NE Ivy Street between N Williams Avenue and NE Rodney Avenue and maintain a current and active Transportation Demand Management Plan and provide the information to ASTR guests within a notebook or a written document online, the transportation system is capable of supporting the proposed use in addition to the existing uses in the area. 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 (Exhibit E-4) and Fire Bureau (E-5) have reviewed the proposal and responded without objection.

The Police Bureau (Exhibit E-6) has reviewed this land use case and has no concerns with the proposal. The proposal was evaluated on whether police can provide adequate public safety services to the proposed use. The Police Bureau is currently able to serve the existing house at the site and will be able to continue providing services to the proposed Type B ASTR use. There are no proposed alterations to the site that would impact the Police Bureau's ability to provide adequate services.

The Bureau of Environmental Services (BES) originally responded that the applicant must disconnect from the existing party sewer and build a new private lateral to the combined sewer in NE Ivy Street before BES could issue a recommendation of approval of the conditional use (Exhibit E-1). BES issued an addendum (Exhibit E-2) after a conforming sanitary connection was built and approved under UC 18-221648 and PT 18-221666 in which BES determined that sufficient information was provided to demonstrate that the sanitary waste disposal approval criteria have been met. Proposed stormwater management for the ADU was reviewed and approved by BES under building permit 18-127717 RS. BES understands that no additional exterior changes are proposed as part of the ASTR request, so the applicant's proposed stormwater management plan is acceptable for the purpose of reviewing the conditional use application against the stormwater management approval criterion. Therefore, BES does not object to the request for conditional use approval of the Type B ASTR.

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 subject site is within the boundaries of the 1993 Eliot Neighborhood Plan and the 1993 Albina Community Plan. The numbered policies and objectives in these plans were adopted by the City Council as part of the Comprehensive Plan.

Among the 10 policies of the Albina Community Plan, one policy directly relates to the conditional use proposal. Policy IX, Community Image and Character, builds a positive identity for the Albina Community throughout the metropolitan area, reinforces Albina's identity as a part of Portland and celebrates its special diverse architectural and cultural character, provides opportunities for people outside of the district to experience the positive characteristics of the Albina Community, and strengthens the Albina Community's sense of place through the promotion of its art, history, and culture.

The proposed ASTR will provide an opportunity for visitors to stay in and explore various cultural attractions within the Albina Community. Therefore, the proposal is consistent with the Community Image and Character Policy of the Albina Community Plan.

Among the 8 area-wide and 8 sub-area policies of the Eliot Neighborhood Plan, one policy is directly related to the conditional use proposal. Policy 3, Housing, maintains and reinforces Eliot's residential areas as a home to families with children, young adults, and seniors who appreciate a close-in urban setting; ensures that non-household activities in designated residential areas are adapted to reinforce the residential character of these

areas; and maintains the clear boundaries that were presented in the Comprehensive Plan between business areas and lower density residential areas within the Eliot Neighborhood.

As stated above in the findings for Approval Criterion B, no changes are proposed to the exterior of the existing house as part of this proposal. The site appearance, setbacks, landscaping, and other site features will remain the same as they are today. Because the house will retain its residential character, the proposal is consistent with the Housing Policy of the Eliot Neighborhood Plan.

This criterion is met.

## **DEVELOPMENT STANDARDS**

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all requirements of Title 11 can be met, and that all development standards of Title 33 can be met or have received an Adjustment or Modification via a land use review, prior to the approval of a building or zoning permit.

## **CONCLUSIONS**

The applicant has proposed a four-bedroom Type B Accessory Short-Term Rental (ASTR) facility within the existing house. No commercial meetings or parties are proposed. The owner will live at the site at least 270 days per year as required. Until the new detached ADU receives final building inspection, the owner will reside in one of the four bedrooms in the house so the rental will be limited to 3 bedrooms. House rules include maintaining quiet hours between 9:30 PM and 7:00 AM, further defined as complying with Portland Title 18 – Noise Control, and prohibiting guests from bringing their pets and smoking on the site. With conditions of approval ensuring the implementation of the house rules, limiting the number of bedrooms and guests to 3 bedrooms with 6 guests while the ADU is under construction and 4 bedrooms with 8 guests once the ADU receives final building inspection, maintaining quiet hours, providing neighbors with updated contact information annually, obtaining an inspection to confirm the sleeping rooms are safe, and maintaining a current and active Transportation Demand Management Plan, the relevant conditional use approval criteria can be met and the request must be approved.

## **ADMINISTRATIVE DECISION**

Approval of a Conditional Use Review for a 3-bedroom Type B Accessory Short-Term Rental (ASTR) facility for up to a maximum of 6 guests while the detached accessory dwelling unit (ADU) is under construction and for a 4-bedroom Type B ASTR facility for up to a maximum of 8 guests after the detached ADU receives final building inspection, within the single-dwelling residence located at 81 NE Ivy Street, granted per the approved site plan, Exhibit C-1, signed and dated October 29, 2018, subject to the following conditions:

- A. The applicant shall implement house rules that apply to ASTR guests, which must at a minimum include the following items:
  - Quiet hours, which is defined as not creating noise impacts in violation of Portland City Title 18, Noise Control, which prohibits the following:
    - Operating or permitting the use or operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or
    - Operating or permitting the operating or use of any such device between the hours 10:00 PM and 7:00 AM to be plainly audible within any dwelling unit which is not the source of the sound.
  - No pets;
  - No smoking;
  - Rental is limited to one group at a time; and
  - No parties or events.

These house rules must be posted in a visible location within the rental and on any website on which the ASTR is advertised.

- B. Commercial meetings, including luncheons, banquets, parties, weddings, meetings, charitable fundraising, commercial or advertising activities, or other gatherings for direct or indirect compensation are not allowed.
- C. All advertisements for the ASTR shall prominently display in the title the maximum number of bedrooms and the maximum number of guests allowed per nightly rental. The advertisements must clearly state that the rental is limited to 4 bedrooms and 8 guests.
- D. The applicant shall annually provide to the Eliot Neighborhood Association and to neighbors on abutting lots and the lots across the street the name, phone number, and email address of a local point of contact for the operator or the operator's designee in the case of late night activities or other nuisances. The applicant shall maintain hard copies of these notifications, including the list of who was notified and when, for inspection by City of Portland staff upon request.
- E. The applicant shall maintain a six-foot high, fully sight-obscuring fence around the rear yard.
- F. The applicant shall apply for a Type B Residential Fee-Paid Inspection to confirm that each bedroom meets smoke detector, carbon monoxide alarm, and egress requirements of 33.207.050.B.4.
- G. The applicant shall maintain a current and active Transportation Demand Management Plan and provide the information to ASTR guests within a notebook or a written document online, to include:
- Secure on-site bicycle parking;
  - Information and maps showing popular destinations and amenities in the area;
  - Information regarding bike rental and car-share opportunities;
  - Transit schedules and maps for local bus routes, including identifying the closest bus stops; and
  - On-street parking may be accessed more easily on NE Ivy Street between NE Rodney Avenue and NE Martin Luther King Jr Boulevard via NE Martin Luther King Jr Boulevard and NE Fremont Street than on NE Ivy Street between N Williams Avenue and NE Rodney Avenue.
- H. The applicant shall maintain a Guest Book Log, which must include the names and home addresses of guests, guests' license plate numbers if traveling by car, dates of stay, and the room assigned to each guest. The log must be available for inspection by City staff upon request.
- I. If City staff obtains evidence that one or more of the situations described in 33.700.040.B exists for this proposal, the Bureau of Development Services may initiate a *Reconsideration of this Land Use Approval* per Zoning Code Section 33.700.040.

**Staff Planner: Lauren Russell**

**Decision rendered by:** Lauren Russell **on October 29, 2018.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: November 2, 2018**

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

**Procedural Information.** The application for this land use review was submitted on February 27, 2018 and was determined to be complete on June 26, 2018.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on February 27, 2018.

*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 requested that the 120-day review period be extended for a total of 60 days (Exhibits A-8 and A-9). Unless further extended by the applicant, **the 120 days will expire on: December 23, 2018.**

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

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

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

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

**Appealing this decision.** This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on November 16, 2018** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **November 16, 2018** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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. Site Plan, Floor Plans, and Elevations received 3/8/18
  - 2. Narrative and Draft Transportation Impact Study received 5/24/18
  - 3. Proof of Residency received 6/5/18
  - 4. Email with Proposed Rental Information received 6/6/18
  - 5. Email from Owner Designating Kendra Shippy as Applicant's Representative received 6/12/18
  - 6. Transportation Impact Study received 6/26/18
  - 7. PBOT Approval of Transportation Impact Study Scope received 6/26/18
  - 8. Thirty-Day Extension of 120-Day Review Period received 8/21/18
  - 9. Thirty-Day Extension of 120-Day Review Period received 10/8/18
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
- D. Notification Information:
  - 1. Mailing List
  - 2. Mailed Notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Environmental Services - ADDENDUM
  - 3. Bureau of Transportation Engineering and Development Review
  - 4. Water Bureau
  - 5. Fire Bureau
  - 6. Police Bureau
  - 7. Site Development Review Section of BDS
  - 8. Bureau of Parks, Forestry Division
  - 9. Life Safety Section of BDS
- F. Correspondence:
  - 1. Anonymous, received 7/9/18, letter opposing proposal
  - 2. Todd Eddie, received 7/16/18, email opposing proposal
- G. Other:
  - 1. Original LU Application submitted 2/27/18
  - 2. Incomplete Letter mailed 3/13/18

**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



THIS SITE LIES WITHIN THE:  
 ALBINA COMMUNITY PLAN DISTRICT  
 ELIOT CONSERVATION DISTRICT

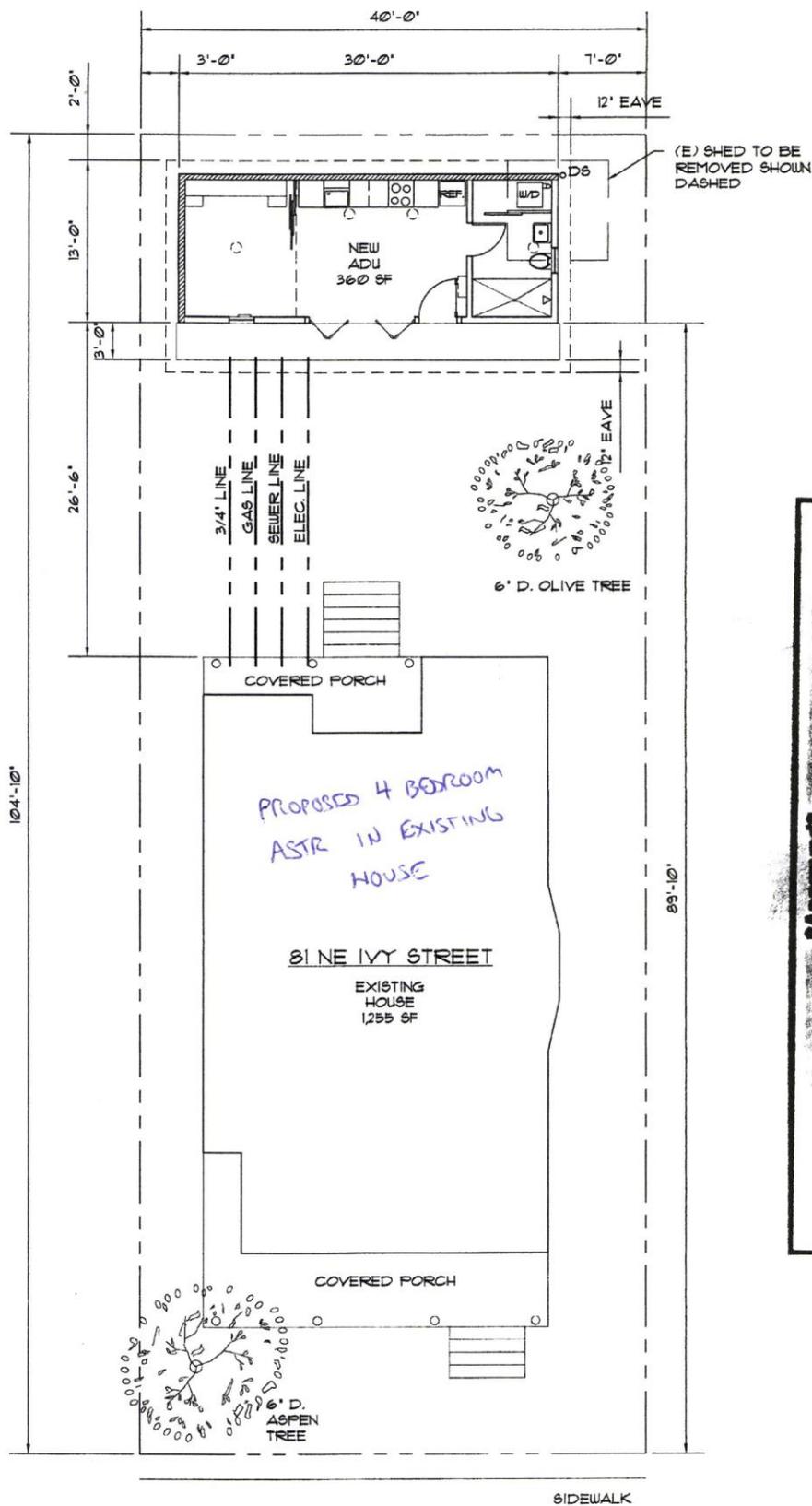


Site



Historic Landmark

File No.	LU 18-127565 CU
1/4 Section	2730
Scale	1 inch = 200 feet
State ID	1N1E27AA 3500
Exhibit	B Mar 02, 2018



**Approved**  
 City of Portland - Bureau of Development Services  
 Planner *Tammy Russell* Date *10/29/18*  
 \* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.



**SITE PLAN**

LOCATION OF EXISTING/NEW UTILITES ARE APPROXIMATE, VERIFY IN FIELD  
 NO EXISTING TREES OVER 12' D. ON PROPERTY  
 DS: DOWNSPOUT TO SPLASH BOX, TYP.

1/8" = 1'-0"

CASE NO. 18-127505 CU  
 EXHIBIT C-1