



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

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**Date:** February 11, 2019  
**To:** Interested Person  
**From:** Don Kienholz, 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 18-194311 CU**

#### **GENERAL INFORMATION**

**Applicant:** Margaret Uthman  
7807 Clarewood Dr.  
Houston, TX 77036

**Owner:** Edward O. Uthman & Margaret O. Uthman  
1415 NE Going St. # A & B  
Portland, OR 97211

**Site Address:** 1415 NE GOING ST.

**Legal Description:** BLOCK 11 E 1/2 OF LOT 4-6, HIGHLAND  
**Tax Account No.:** R384301270  
**State ID No.:** 1N1E23BD 13200  
**Quarter Section:** 2531

**Neighborhood:** Sabin Community Assoc., contact Rachel Lee at 503-964-8417.  
**Business District:** Soul District Business Association, contact at [info@nnebaportland.org](mailto:info@nnebaportland.org)  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Laura Becker at 503-388-6088.

**Plan District:** None  
**Zoning:** R5ah – Single Dwelling Residential, 5,000 with Alternative Design Density ('a') and Aircraft Landing Zone ('h') overlay zones.

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

#### **Proposal:**

The applicant is proposing a Type B Accessory Short-Term Rental (ASTR) consisting of up to four bedrooms and up to 8 adult guests. A fifth room is equipped with a 'Pack 'N Play' and is proposed as a child or infant's room only. A long-term tenant currently lives in an attached

Accessory Dwelling Unit on the same site and will be available to respond to complaints regarding guest activity in conjunction with the property owners' daughter, who is listed as a co-operator and lives in Portland. Type B ASTRs are allowed if approved as Type II Conditional Uses in the single-dwelling zones.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Portland Zoning Code section 33.815.105 – Institutional and Other Uses in Residential and Campus Institutional Zones.

**ANALYSIS**

**Site and Vicinity:** The subject property is a 6,250 square foot site developed with a 4,055 square foot, five-bedroom, single-family dwelling with an attached two-bedroom Accessory Dwelling Unit in the basement and attached garage built in 2016. The site is two blocks south of the Alberta arts district commercial corridor and a block and a half from NE 15<sup>th</sup>, a major north-south corridor connecting the arts district to Irvington and the Lloyd District. The immediate vicinity is made up mostly of single-family dwelling homes in the R5 and R2.5 zoning districts, the commercial uses along NE Alberta, and a small commercial core at the intersection of NE 15<sup>th</sup> and NE Prescott.

**Zoning:** The R5 zone is one of Portland's single-dwelling zones intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing. The development standards preserve the character of neighborhoods by providing six different zones with different densities and development standards. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The Alternative Design Density Overlay ('a') Zone's purpose is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

The Aircraft Landing Overlay Zone ('h') provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment.

**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 **December 27, 2018**. The following Bureaus have responded with no issues or concerns:

- Site Development Section of BDS, Life Safety Section of BDS, Fire Bureau, Water Bureau and the Parks Bureau (Exhibit E.1).

The Bureau of Environmental Services provided comments (Exhibit E.2) that note the proposal includes less than 500 square feet of new impervious surface and does not trigger the Stormwater Management Manual. Additionally, the stormwater system will need to be shown at time of building permit.

The Police Bureau provided comments that the bureau has been providing service to the site and will be able to continue to do so (Exhibit E.3).

The Bureau of Transportation Engineering responded with comments (Exhibit E.4) that are included in response to the Conditional Use approval criteria D.1 and 2 later in this decision.

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

1. Dawn Nafus, January 3, 2019 email in opposition (Exhibit F.1);
2. Sarah Price, January 16, 2019 email in opposition (Exhibit F.2);
3. Dan Jaffee, January 17, 2019 email in opposition (Exhibit F.3);
4. Jackie Candel, January 17, 2019 email in opposition (Exhibit F.4);
5. Pam Reynolds, January 17, 2019 email in opposition (Exhibit F.5); and
6. Gray Caskey, January 17, 2019 email in opposition (Exhibit F.6).

The main concerns and objections raised from the emails are summarized below:

- The code differentiates between the primary residential unit on a property and the accessory unit. They argue the primary residential unit (the 5-bedroom house) should be where the primary use (the use of a residence by a long-term resident) should be located and the accessory use (the ASTR) should be located in the accessory dwelling unit (ADU).
- The main purpose of the property appears to be an ASTR rather than a home for a long-term tenant. The writer hasn't seen any long-term resident on site and continuously sees people coming and going with suitcases.
- The original home was an affordable home demolished for a large new home that helps to gentrify the neighborhood.
- The maintenance of the property. One writer was concerned an out of town owner may neglect the property while another was concerned that professional cleaners came to the site, which would seem to make the ASTR more commercial in nature than accessory to a residential use.
- Maintenance workers run leaf blowers and blow leaves, trash, and debris on neighbors' yards rather than hauling it off site.
- An ASTR owned by an out of town owner could leave neighbors with little recourse when noisy or bad guests are renting the unit.
- Noise from guests using the deck in the back yard. Because it is elevated, noise carries. In the summer, the deck is used frequently and some parties disrupt neighbors.
- The intensity of the ASTR is that of a commercial tourist use and much greater than a resident living in a dwelling, making it incompatible with the adjacent neighborhood.
- The house is overbearing to the homes in the neighborhood.
- The residents and guests of the home park throughout the neighborhood and sometimes block driveway.
- The ADU would be the more appropriate unit for a short-term rental.

**Staff Response:** The majority of concerns raised focus on the ASTR being the primary use in the primary structure, or the ASTR use being commercial in nature. The Portland City Council, through the adoption of Zoning Code Chapter 33.207, established the policy that allows the operation of ASTRs in dwelling units. Through the adoption of these regulations, City Council determined that the rental of bedrooms for short-term occupancy (fewer than 30 days) is a permitted accessory use (not a commercial use) in residential dwellings as long as a resident occupies the dwelling for

at least 270 days during each calendar year (Zoning Code Section 33.207.050.A.1). Having a resident occupy the dwelling unit for at least 270 days establishes that a primary Household Living use exists on the site. For Type B ASTRs, the regulations of Chapter 33.270 allow applicants to request to rent out up to five bedrooms for short-term occupancy if approved through the Conditional Use review process (Zoning Code Sections 33.207.050.A.2 and B.1). Furthermore, Zoning Code Section 33.207.050.B.2 states that when an ASTR is established on a site that also has an ADU, the resident may reside either in the primary dwelling on the site or in the ADU, and rent bedrooms for short-term occupancy in either of the dwelling units.

Concerns over noisy guests, traffic and parties are addressed in the Conditional Use approval criteria below and conditions of approval, included by the City. Non-compliance by an operator of an ASTR to the standards or conditions of approval may be grounds for the revocation of a land use permit under Portland Zoning Code Section 33.700.040. Maintenance of a home is regulated under the City's Title 29 for property maintenance.

## ZONING CODE APPROVAL CRITERIA

**33.815.105 Institutional and Other Uses in Residential and Campus Institutional Zones**  
**These approval criteria apply to all conditional uses in R and campus institutional zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in residential and campus institutional zones that maintain or do not significantly conflict with the appearance and function of residential or campus areas. Criteria A through E apply to institutions and other non-Household Living uses in residential zones. Criteria B through E apply to all other conditional uses in campus institutional zones. 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.**

**Finding:** For Criteria A.1 and A.2 below, the terms “area” and “residential area” are synonymous and are defined as an approximate distance of 400 feet from the site. This distance is reasonable for four reasons: it considers all residentially zone property within a couple blocks of the site; is the same area reviewed for the parking analysis; ensures no adverse impacts even beyond the noticing distance required; and it evaluates the same area reviewed for other Conditional Uses that are Type III land use reviews. Note that properties within non-residential zones (such as Commercial or Open Space zones) are not included within the “residential area.”

As defined above, the area extends from the subject site to NE Wygant to the north, NE 15<sup>th</sup> to the east, NE Prescott to the south and NE 13<sup>th</sup> to the west. The residential zoned area consists exclusively of homes and several Type A ASTRs:

The Type A ASTR is located in six of the houses within this defined residential area:

- 4821 NE 14<sup>th</sup> Ave;
- 4756 NE 14<sup>th</sup> Ave;
- 4745 NE 15<sup>th</sup> Ave, Un. A;
- 4714 NE 14<sup>th</sup> Pl;

- 1311 NE Going St; and
- 4519 NE 15<sup>th</sup> Ave.

Type A ASTRs are allowed by right, and are limited to renting one to two-bedrooms for short-term occupancy in a dwelling. In allowing Type A ASTRs by right, and limiting the number of rooms that could be rented for short-term occupancy, the Zoning Code acknowledges that these uses are similar in character to residential uses and any impacts associated with Type A ASTRs are not different enough from a residential use to necessitate Conditional Use review. As such, the existence of these six Type A ASTRs, in combination with the proposed Type B ASTR, does not lessen the appearance or function of the surrounding residential area.

Additionally, of the six Type A ASTRs only one is on the same block (defined by NE Wygant, NE 14<sup>th</sup> Pl, NE Going St and NE 11<sup>th</sup> Avenue) as the subject site. This Type A ASTR is located approximately 250 feet north of the proposed Type B ASTR and oriented to a different street (NE Wygant St). The next closest Type A ASTR to the proposed Type B ASTR is located approximately 230 feet west of the subject site, on a different block and across NE 14<sup>th</sup> Avenue.

Portland Zoning Code section 33.207.020.B allows for the rental of an ASTR with three or more bedrooms. While the majority of homes in the city likely consist of three or fewer bedrooms, there are many that do have anywhere from 4 to 7. Additionally, Portland's zoning code allows by right any home in a single-dwelling zone, such as the subject site, to have an Accessory Dwelling Unit. As such, the proposed use is similar in intensity and scale as a household living use in the single-dwelling zones.

As the residential area is made up of approximately 100 lots with none in non-residential use, the overall residential appearance and function of the area will not be lessened with the addition of a Type B ASTR.

As for the intensity of the use, the applicant requests the ability to rent out for short-term occupancy four of the primary dwelling unit's five bedrooms; the occupancy of each of these four rooms would be limited to two adults. The applicant also requests the ability to rent the fifth bedroom for persons under the age of 18. As requested, the Type B ASTR would be limited to a maximum of nine guests. While this may seem large for the neighborhood, it must be recognized that this is a five-bedroom house and a house of this size could accommodate a family of 10 people (two people per bedroom). To ensure a limit on the intensity of the proposed ASTR is maintained over time, a condition of approval will require the number of ASTR guests in the primary dwelling to be limited to a maximum of nine.

*Criterion met.*

## **B. Physical compatibility.**

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

**Finding:** City-designated scenic resources are identified on the Official Portland Zoning Maps with the 's' overlay zoning symbol. As this site is not designated with the 's' overlay zone, and there are no City-designated scenic resources on the 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**

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

**Finding:** The proposed Type B ASTR is to be located within an existing house on a middle lot on NE Going Street. The house is a replica early century 2-story American Foursquare design that fits into the early 20<sup>th</sup> century homes in the area. The home was built in 2016 and includes an ADU in the basement and attached garage. From the street, the building looks like a single-family home with a front porch and landscaped front yard. An outdoor deck is located between the rear of the house and the rear property line. The dwelling meets the R5 development standards for height, setbacks, and building coverage.

As the structure was built as a single-dwelling residence with an ADU, and meets all R5 development standards, there is no need to require mitigation to achieve similarity in appearance or scale through such means as setbacks, screening, landscaping, tree preservation, other design features.

*Criteria met*

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

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

**2. Privacy and safety issues.**

**Finding:** The applicant has provided a narrative and proposed the following house rules (Exhibits A.6 and 12) to help reduce potential adverse impacts to the surrounding properties and neighborhood:

- A maximum of 8 adults;
- No smoking on the premises – indoors or outdoors;
- No parties;
- No pets;
- Quiet hours from 10:00 PM to 8:00 AM; and
- No commercial meetings (Commercial Meetings are identified in Zoning Code Section 33.207.050.B.8).

The primary livability concerns related to the proposal, as brought up by neighbors, are the possibility of late-night activities and noise, lack of parking and the intensity of the activity. The primary exterior space where late night activities and noise could occur is the outdoor deck in the back yard. As the applicant noted in the house rules, noise in the neighborhood carries when outside.

A certain level of noise is to be expected from the long-term resident(s) of the accessory dwelling unit, and the expectation of what noise might constitute a significant impact on livability is not complete silence, but whether the level of noise consistently exceeds what might be expected from that which long-term residents would generate. Long-term residents in the house would be expected, generally to work during the day and, also, to recreate at home later in the evenings on weekends. The applicant's proposal to limit noise through the institution of "quiet hours" after 10:00 pm on weekdays and weekends is a reasonable method of limiting noise during times when adjacent residents could be expected to be sleeping. The "quiet hours" will apply outside and within the house and will therefore apply both to the exterior deck and the second floor north-facing living areas in the house, those areas where noise impacts would likely be greatest to adjacent properties. To ensure the implementation of noise conditions that can be enforced, a condition of approval will require that the ASTR not create noise impacts in violation of Portland City Code Title 18.

To further enforce the quiet hours, a condition of approval is needed to require that the contact information of the long-term resident and the local operator be provided to surrounding neighbors so that they will have a means of registering complaints should there be guests that violate the rules.

Together, both the requirement to abide by Title 18 and the ability of neighbors to contact a local person to enforce them, will work to ensure that the noise generated by ASTR guests remains similar to what could be expected if the house were occupied by a family, or by a group of unrelated long-term residents.

Additionally, fencing and landscaping is a means to help reduce noise through absorption and improve the privacy of neighboring properties. The site plan provided is from the original building permit to building the house from 2016. The site plan shows three trees lined along the rear property line and the rest of the back yard as lawn. It is not clear if additional landscaping or screening has been provided since the initial construction of the home. A condition of approval will require an F2 fence and trees that meet the L1 landscaping standard (33.248.020.A) along all three sides of the back yard to provide a buffer of views into neighboring yards and provide sound absorption for when guests are in the back yard.

The applicant is proposing no new exterior lights. Existing exterior lighting has not been brought up as an issue and so staff determines the lighting is not an issue.

As the primary use and the ASTR are both residential uses, any odors generated that are discernable from off the property can reasonably be expected to be the same as would be generated by a strictly long-term residential use, such as those associated with cooking or barbecuing. The impacts of such odors on the livability of nearby residences, therefore, will generally be no more adverse than if there were only a long-term resident at the house and no ASTR. An exception to this is the possibility that guests may wish to smoke. As the applicant has provided house rules that prohibits ASTR guests from smoking indoors and out, and smoking can be a source of adverse odors, a condition of approval will be included prohibiting ASTR guests from smoking on the site.

With the noted House Rules and conditions of approval discussed above, this criterion is met.

#### **D. Public services.**

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

**Finding:** The site fronts on NE Going Street. The Transportation Element of the Comprehensive Plan designations of this street are listed in the table below:

<b>Street</b>	<b>Traffic</b>	<b>Transit</b>	<b>Emergency Response</b>	<b>Bicycle</b>	<b>Pedestrian</b>	<b>Freight</b>
<b>NE Going</b>	Local Service	Local Service	Local Service	City Bikeway	Local Service	Local Service

Local service streets for traffic, transit, emergency response, pedestrian and freight are intended to serve the local circulation needs for their respective modes as well as provide convenient access to local destinations, including safe routes to schools. Local service classifications tend to use smaller transit vehicles and seldom have frequent bus service or stops. City Bikeways are intended to establish direct and convenient bicycle access to significant destinations, provide convenient access to

Major City Bikeways, such as NE 9<sup>th</sup>, and provide coverage within three city blocks of any given point. The subject site is occupied with a household living use, a low intensity use, and the proposed accessory short-term rental. Considering the demand of the uses on site and the designations of NE Going Street for the respective modes, this criterion is met.

*Criterion met.*

## **2. Transportation system:**

- a. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated;**
- b. Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements;**
- c. Transportation improvements adjacent to the development and in the vicinity needed to support the development are available or will be made available when the development is complete or, if the development is phased, will be available as each phase of the development is completed;**

**Findings:** The following findings were provided by Portland Bureau of Transportation staff:

### **SAFETY**

Using Data obtained from the Oregon Department of Transportation's (ODOT) Crash Analysis and Reporting Unit, a review of the most recent available five years of crash history (from January 2012 to December 2016) at the study intersections was performed. The crash data was evaluated based on the number of crashes, the type of collisions, and the severity of collisions at the intersections.

The intersection of NE Prescott Street at NE 14th Avenue had three reported crashes during the analysis period. The crashes consisted of three angle-type collisions. All of the reported crashes resulted in property damage only.

The intersection of NE Prescott Street at NE 15th Avenue had six reported crashes during the analysis period. The crashes were classified as one rear-end collision, one pedestrian collision, two angle-type collisions, one turning movement collision, and one head-on collision. The crashes resulted in one non-incapacitating injury and five possible injuries. The pedestrian collision was caused by the pedestrian disregarding the traffic signal

Based on the most recent five years of available crash data, no significant safety hazards were identified at either of the study intersections. Additionally, no design deficiencies which would impact the safety of area roadways and intersections were

noted based on observations conducted within the site vicinity. Detailed information about crashes and crash reports for the study intersections are included as an attachment to this memorandum.

### **Bicyclist Safety**

As described in the Availability of Pedestrian and Bicycle Networks, NE Going Street and NE 14th Place are designated bikeways, while the surrounding roadways generally serve light to moderate traffic volumes traveling at low speeds (posted and statutory speeds of 20 mph to 30 mph). Additionally, neighborhood streets in the immediate site vicinity are typically low-stress roadways that provide alternative routes to these and other nearby bicycle paths. Accordingly, the surrounding bicycle infrastructure provides a safe and comfortable environment for bicyclists.

### **Pedestrian Safety**

As described in the Availability of Pedestrian and Bicycle Networks, sidewalks are complete along both sides of nearby area roadways and adequate crossing measures, such as marked crossings across Marked crossings are available at the intersections of NE 15th Avenue at NE Going Street and NE 15th Avenue at NE Prescott Street. The proposed short-term rental will not remove or block any existing walkways within the area, whereby pedestrian safety and connectivity in the immediate vicinity will be maintained.

### **Transit User Safety**

As noted and further described in the Transit Availability section, the nearest bus stops that could reasonably serve transit users of the proposed conditional use and nearby existing land-uses are located along NE 15th Avenue, NE Alberta Street, and NE Martin Luther King Jr. Boulevard. Complete sidewalks; relatively low travel speeds and traffic volumes at lower classification roadways; and adequate crossing measures at intersections, allow for safe travel for transit users between the site and nearby transit stops.

*Based on the analysis, the transportation system is capable of safely supporting the proposed short-term rental in addition to the nearby existing land-uses within the site vicinity.*

### **Sight Distance**

Intersection sight distance was examined for the site access driveway. Sight distance was measured and evaluated in accordance with the standards established in A Policy on Geometric Design of Highways and Streets . According to AASHTO, the driver's eye is assumed to be 15 feet from the near edge of the nearest lane of the intersecting street and at a height of 3.5 feet above the approach street pavement. The vehicle driver's eye-height along the major-street approach is assumed to be 3.5 feet above the cross-street pavement.

Based on the posted speed limit of 20 mph along NE Going Street, there is a required intersection sight distance of 225 feet. Sight distance was measured to be in excess of 350 feet to the west. Sight distance was measured to be 200 feet to the east. However, if a vehicle pulls forward to a location 5-10 feet from the near edge of the travel lane, a sight distance of approximately 370 feet can be achieved, to the roadway's intersection with NE 15th Avenue. Sight distance is adequate at the site access.

### **STREET CAPACITY AND LEVEL OF SERVICE**

Observations of traffic conditions during the weekday morning and evening peak periods were conducted to ensure that the study intersections can adequately accommodate future trips to/from the proposed conditional use in addition to the existing uses within the site vicinity. Traffic observations were conducted at the study intersections of NE Prescott Street at NE 14th Avenue and NE Prescott Street at NE 15th Avenue during the morning and evening peak periods on Tuesday, July 31st, 2018

between 7:00 AM and 9:00 AM, and on Thursday, August 9th, 2018 between 4:00 PM and 6:00 PM, respectively.

Intersections are generally evaluated based on the average control delay experienced by vehicles at an intersection and are assigned a grade according to their operation. The level of service (LOS) of an intersection can range from LOS A, which indicates very little or no delay experienced by vehicles, to LOS F, which indicates a high degree of congestion and delay. The City of Portland generally requires unsignalized intersections operate at LOS E or better. Detailed LOS descriptions are included as an attachment to this memorandum.

The intersection of NE Prescott Street at NE 14th Avenue was observed to have an average delay of 13 seconds experienced by turning vehicles during the morning peak hour and less than ten seconds during the evening peak hour. Observed queues on the minor street approaches never exceeded more than two vehicles during either peak period. Traffic volumes along NE Prescott Street were observed to be in a state of free-flow during both the morning and evening peak periods. Accordingly, the intersection was estimated to currently operate at LOS B during the morning peak hour and LOS A during the evening peak hour.

The intersection of NE Prescott Street at NE 15th Avenue was observed to have a cycle length of 70 seconds during both the morning and evening peak hours. The average observed queue length was five vehicles, and the observed queues cleared with every cycle. The average delay experienced by the first car in each queue was between 20 and 35 seconds. Accordingly, the intersection was estimated to currently operate at LOS C during both the morning peak hour and evening peak hour.

The results of the capacity observations indicate that both study intersections operate acceptably during the weekday morning and evening peak periods under existing conditions. Based on the minimal volumes of additional weekday morning and evening peak hour trips expected to be added to the transportation system, following implementation of the short-term rental, the study intersections are projected to continue operating acceptably in the future either with or without the additional site trips. No mitigation is necessary or recommended with regard to intersection capacity or operation as part of the proposed conditional use.

### **CONNECTIVITY**

The project site is located within a neighborhood where the transportation grid system is reasonably complete, providing multiple redundant routes to/from the site via motor vehicle and other modes of travel. NE 15th Avenue will serve as the primary provide north/south connection to other major east/west corridors, including NE Prescott Street and NE Alberta Street. These roadways will likely serve as the main connection to other nearby, major north/south roadways such as Interstate 5 (I-5) and NE Martin Luther King Jr. Boulevard. The aforementioned roadways will serve as the primary routes of travel between the site and the greater Portland Metro Area.

### **TRANSIT AVAILABILITY**

The project site is located near three transit lines: bus line #6 – MLK Jr Blvd, #8 – Jackson Park/NE 15th, and #72 – Killingsworth/82nd. All three bus lines have stops located within approximately one-mile walking/biking distance of the site.

TriMet bus line #6 – MLK Jr Blvd provides frequent service between Hayden Island and Portland City Center, with notable stops near Jantzen Beach, Delta Park, Convention Center, and Goose Hollow. The nearest stops to the site are located along NE Martin Luther King Jr. Boulevard. Weekday service is scheduled from approximately 4:45 AM to 1:15 AM and has headways of approximately 15 to 30 minutes. Saturday and Sunday service are scheduled from approximately 4:40 AM to 1:15 AM and has headways of approximately 10 to 20 minutes.

TriMet bus line #8 – Jackson Park/NE 15th provides frequent service between the Oregon Health and Science University (OHSU) and Woodlawn Park, with notable stops near Albina Library, Lloyd Center, Rose Quarter Transit Center, Memorial Coliseum/Moda Center, Convention Center, Portland City Center, and Duniway Park. The nearest stops to the site are located along NE 15th Avenue. Weekday service is scheduled from approximately 4:45 AM to 2:00 AM and has headways of approximately 5 to 35 minutes. Saturday service is scheduled from approximately 5:30 AM to 2:00 AM and has headways of approximately 15 to 30 minutes. Sunday service is scheduled from approximately 6:00 AM to 1:00 AM and has headways of approximately 15 to 60 minutes.

TriMet bus line #72 – Killingsworth/82nd provides frequent service between Swan Island and Clackamas Town Center, with a notable stop near Killingsworth, Alberta, and 82nd. The nearest stops to the site are located along NE Alberta Street. Weekday service is scheduled from approximately 4:20 AM to 2:00 AM and has headways of approximately 15 to 30 minutes. Saturday and Sunday service are scheduled from approximately 5:15 AM to 1:45 AM and has headways of approximately 15 to 30 minutes.

#### **AVAILABILITY OF PEDESTRIAN AND BICYCLE NETWORKS**

Sidewalks are complete along both sides of nearby area roadways and adequate crossing measures, such as marked crossings across NE 15th Avenue and NE Prescott Street are available. In addition, area intersections/roadways that don't provide marked crossings typically serve low to moderate levels of traffic with statutory/posted speeds of 20 mph to 30 mph.

NE Going Street is classified as a Neighborhood Greenway in the City of Portland's Northeast Portland Bike/Walk Map. There are sharrows depicted on the roadway in order to inform drivers that bicycles share the road with vehicles. Additionally, the map classifies NE 14th Place as a shared roadway.

*Based on an assessment of surrounding area, sufficient pedestrian and bicycle facilities are available within the site vicinity to adequately and safely serve the proposed conditional use in addition to the surrounding existing uses.*

#### **ON-STREET PARKING IMPACTS**

To determine the availability of parking as well as the existing parking demand in the study area, parking observations were conducted during the early morning hours from approximately 11:20 PM to 11:50 PM on Wednesday, August 8th, 2018, as well as times corresponding to the morning and evening peak traffic hours. Observations were conducted along the vicinity roadways of NE Going Street, NE 14th Place, and NE 14th Avenue within approximately a one to two block distance of the site.

The overnight hours typically reflect the peak parking demand for residential land-uses. The immediate surrounding area is predominately residential with occasional small restaurants/bars, retail, and service businesses along NE 15th Avenue and mixed uses on NE Prescott Street. On-street parking was observed during the morning, evening, and overnight hours in order to capture the demand of all uses. However, the demand recorded during the overnight peak period was the highest and is used for analysis. The demand during the morning and evening peak hours is shown in the parking worksheets attached in the appendix.

The total observed on-street parking demand within the site vicinity was 74 passenger cars during the overnight hours. For the purposes of this analysis, parked trailers and motorcycles were treated as on-street parked cars.

The total amount of available parking along the studied roadways was calculated by measuring the length of the roadway segment and excluding the frontage area for each driveway curb-cut, fire hydrant, or other unavailable parking areas, such as no-parking zones or intersecting public streets. The remaining frontage area was then divided assuming 20 feet per parked vehicle with a 4-foot buffer area for every two parked vehicles to derive the number of available parking spaces. This methodology may underestimate the total number of available spaces in situations where driveway curb-cuts are shorter than 20 feet or when fire hydrants are on the corner of an intersection. Based on these assumptions, an estimated available parking supply of 152 spaces was calculated within the site vicinity.

Table 4 below shows the parking supply, demand, and net remaining available parking along the studied street segments during the overnight peak demand period. Detailed parking observations and supply calculations are included as an attachment to the TIA.

**Table 4 Existing Parking Supply and Demand Summary**

Roadway Segment	From	To	Supply	Demand	Net Available	Occupancy
NE Going Street	NE 12th Avenue	NE 15th Avenue	58	21	37	36.2%
NE 14th Avenue	NE Wygant Street	NE Prescott Street	46	21	25	45.7%
NE 14th Place	NE Wygant Street	NE Prescott Street	48	32	16	66.7%
<b>Total</b>			<b>152</b>	<b>74</b>	<b>78</b>	<b>48.7%</b>

### **PARKING GENERATION**

The projected parking demand that will be generated as a result of the proposed short-term rental was estimated using rates from the manual Parking Generation . Data from land-use code 320, Motel, was used to estimate parking generation of the short-term rental based on the number of rentable bedrooms.

Based on the Parking Generation data, the proposed short-term rental in place of the existing single-family house is expected to increase the average peak parking demand of the site by 4 vehicles. Detailed parking generation calculations are included as an attachment to this memorandum.

### **PARKING IMPACTS**

Under existing conditions, a total of 78 parking spaces remain available within the study area during the peak parking demand period. With implementation of the short-term rental, the overall parking supply within the site vicinity will remain the same while the average peak parking demand is expected to increase by 4 vehicles. Subsequently, the net available parking is expected to decrease from 78 spaces to 74 spaces. Table 6 (below) shows the net change in parking availability in the immediate vicinity upon implementation of the short-term rental.

**Table 6: Net Change in Vicinity Parking Availability**

	Supply	Demand (Average Peak Parking)	Net Available	Occupancy
Existing Conditions	152	74	78	48.7%
Proposed Short-Term Rental Impacts	0	4	-	-
Existing Conditions with Short-Term Rental	152	78	74	51.3%

**ACCESS RESTRICTIONS**

Aside from eastbound right-turn only travel along a segment of NE Going Street at the intersection with NE 15th Avenue, there are no other restrictions for access to or from the site. Alternative, nearby eastbound travel routes from the site are available by way of NE Prescott Street, NE Wygant Street, and NE Alberta Street.

The site trips generated by the proposed use will largely match the residential traffic characteristics of the surrounding vicinity, whereby travel patterns will not significantly alter from what is currently observable in the area. Accordingly, no additional access restrictions along any nearby vicinity roadways are necessary or recommended in conjunction with the proposed use.

**NEIGHBORHOOD IMPACTS**

The impacts associated with the proposed short-term rental are expected to be minor. A minimal increase in peak hour and daily traffic (2 additional morning and evening peak hour trips and 28 weekday trips) are projected, assuming that each of the 5 bedrooms were rented.

*As described within the study, the added trips on the nearby transportation system will not have a significant effect on the operation or safety of the nearby street system and the proposed conditional use will have no significant impact on the available on-street parking supply in the neighborhood. The proposed conditional use is also in conformance with the residential character of the existing neighborhood and accordingly will have minimal impacts felt by the neighborhood.*

*PBOT determined no mitigation was warranted, no transportation improvements are needed and has no objection to the proposal.*

*Criteria 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.**

**Finding:** The Water Bureau and Fire Bureau have indicated, through their respective responses of “no concerns” with the proposal (Exhibits E.1), that they are capable of serving the proposed ASTR. The Police Bureau responded they have been and will continue to provide service to the site (Exhibit E.3). The response from the Bureau of Environmental Services (Exhibit E.2) indicates no objection to approval of this Conditional Use based on there being sanitary sewer service available via the public

combined sewer within the site's frontage; and there being no BES requirement for additional stormwater disposal systems and this criterion will be met.

*Criteria 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.**

**Finding:** The subject site is within the boundaries of the Albina Community Plan area and the Sabin Neighborhood Plan area.

Albina Community Plan: The Albina Community Plan (adopted in 1993) covers thirteen neighborhood areas of North and Northeast Portland, and a diverse range issues. A central aim of the plan is to “. . . combat the loss of employment base, disinvestment and dilapidation in the Albina area. A comprehensive district action plan provides a policy framework and long-term certainty to those that own property or that may wish to invest in Albina. A comprehensive plan also recognizes the interrelationship between land use, transportation, environmental, educational, public safety, social and family issues and how each must be addressed in order for others to succeed.”

The findings below focus on only on those aspects of the Plan that relate to the proposal. For example, neighborhood livability policies seek to reduce impacts of the I-5 freeway. Because the freeway is more than a mile from the site, policies related to this issue are not examined.

Policy Area I: Land Use

Policy A: General Land Use: Encourage residential, recreational, economic and institutional developments that reinforce Plan Area neighborhoods; increase the attractiveness of Albina to residents, institutions, businesses and visitors; and create a land use pattern that will reduce dependence on the automobile.

Policy B: Livable Neighborhoods: Protect and improve the livability of the residential neighborhoods within the Albina Community.

The proposal meets these two policies as it preserves an existing household living use on the property and expands on that use by providing short-term accommodation to visitors.

Sabin Neighborhood Plan:

Policy 1 Housing: Foster the preservation and development of affordable quality housing that is compatible with the existing single-family character and socio-economic diversity of the Sabin Neighborhood.

The proposal includes a household living use in the attached ADU, providing a more affordable dwelling option for a resident. The existing dwelling was constructed as a replica of the early 20<sup>th</sup> century housing that dominates the area.

The proposal meets the applicable Sabin Neighborhood Plan policies.

*Criterion met.*

**Oregon Statewide Planning Goals**

Because one or more of the criteria listed above is an unacknowledged land use regulation, this proposal must also comply with applicable Statewide Planning Goals.

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. This application was submitted on June 27, 2018 and determined to be complete December 20, 2018. Should the applicable city approval criteria become acknowledged during the course of the review, the proposal may no longer be required to demonstrate compliance with the Statewide Planning Goals.

#### Goal 1: Citizen Involvement

Goal 1 calls for “the opportunity for citizens to be involved in all phases of the planning process.” It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a Committee for Citizen Involvement (CCI) to monitor and encourage public participation in planning.

**Findings:** The City of Portland maintains an extensive citizen involvement program which complies with all relevant aspects of Goal 1, including specific requirements in Zoning Code Chapter 33.730 for public notice of land use review applications that seek public comment on proposals. There are opportunities for the public to testify at a local hearing on land use proposals for Type II land use decisions if appealed. For this application, a written seeking comments on the proposal was mailed to property-owners and tenants within 150 feet of the site, and to recognized organizations in which the site is located and recognized organizations within 400 of the site. There is also an opportunity to appeal the administrative decision at a local hearing.

The public notice requirements for this application have been and will continue to be met, and nothing about this proposal affects the City’s ongoing compliance with Goal 1. Therefore, the proposal is consistent with this goal.

#### Goal 2: Land Use Planning

Goal 2 outlines the basic procedures of Oregon’s statewide planning program. It states that land use decisions are to be made in accordance with a comprehensive plan, and that suitable “implementation ordinances” to put the plan’s policies into effect must be adopted. It requires that plans be based on “factual information”; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed. Goal 2 also contains standards for taking exceptions to statewide goals. An exception may be taken when a statewide goal cannot or should not be applied to a particular area or situation.

**Findings:** Compliance with Goal 2 is achieved, in part, through the City’s comprehensive planning process and land use regulations. For quasi-judicial proposals, Goal 2 requires that the decision be supported by an adequate factual base, which means it must be supported by substantial evidence in the record. As discussed earlier in the findings that respond to the relevant approval criteria contained in the Portland Zoning Code, the proposal complies with the applicable regulations, as supported by substantial evidence in the record. As a result, the proposal meets Goal 2.

#### Goal 3: Agricultural Lands

Goal 3 defines “agricultural lands,” and requires counties to inventory such lands and to “preserve and maintain” them through farm zoning. Details on the uses allowed in farm zones are found in ORS Chapter 215 and in Oregon Administrative Rules, Chapter 660, Division 33.

#### Goal 4: Forest Lands

This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will “conserve forest lands for forest uses.”

**Findings for Goals 3 and 4:** In 1991, as part of Ordinance No. 164517, the City of Portland took an exception to the agriculture and forestry goals in the manner authorized by state law and Goal 2. Since this review does not change any of the facts or analyses upon which the exception was based, the exception is still valid and Goal 3 and Goal 4 do not apply.

#### Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources

Goal 5 relates to the protection of natural and cultural resources. It establishes a process for inventorying the quality, quantity, and location of 12 categories of natural resources. Additionally, Goal 5 encourages but does not require local governments to maintain inventories of historic resources, open spaces, and scenic views and sites.

**Findings:** The City complies with Goal 5 by identifying and protecting natural, scenic, and historic resources in the City's Zoning Map and Zoning Code. Natural and scenic resources are identified by the Environmental Protection ("p"), Environmental Conservation ("c"), and Scenic ("s") overlay zones on the Zoning Map. The Zoning Code imposes special restrictions on development activities within these overlay zones. Historic resources are identified on the Zoning Map either with landmark designations for individual sites or as Historic Districts or Conservation Districts. This site is not within any environmental or scenic overlay zones and is not part of any designated historic resource. Therefore, Goal 5 is not applicable.

#### **Goal 6: Air, Water and Land Resources Quality**

Goal 6 requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.

**Findings:** Compliance with Goal 6 is achieved through the implementation of development regulations such as the City's Stormwater Management Manual at the time of building permit review, and through the City's continued compliance with Oregon Department of Environmental Quality (DEQ) requirements for cities. The Bureau of Environmental Services reviewed the proposal for conformance with sanitary sewer and stormwater management requirements and expressed no objections to approval of the application, as mentioned earlier in this report. Staff finds the proposal is consistent with Goal 6.

#### **Goal 7: Areas Subject to Natural Disasters and Hazards**

Goal 7 requires that jurisdictions adopt development restrictions or safeguards to protect people and property from natural hazards. Under Goal 7, natural hazards include floods, landslides, earthquakes, tsunamis, coastal erosion, and wildfires. Goal 7 requires that local governments adopt inventories, policies, and implementing measures to reduce risks from natural hazards to people and property.

**Findings:** The City complies with Goal 7 by mapping natural hazard areas such as floodplains and potential landslide areas, which can be found in the City's MapWorks geographic information system. The City imposes additional requirements for development in those areas through a variety of regulations in the Zoning Code, such as through special plan districts or land division regulations. The subject site is not within any mapped floodplain or landslide hazard area, so Goal 7 does not apply.

#### **Goal 8: Recreation Needs**

Goal 8 calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed standards for expediting siting of destination resorts.

**Findings:** The City maintains compliance with Goal 8 through its comprehensive planning process, which includes long-range planning for parks and recreational facilities. Staff finds the current proposal will not affect existing or proposed parks or recreation facilities in any way that is not anticipated by the zoning for the site, or by the parks and recreation system development charges that are assessed at time of building permit. Furthermore, nothing about the proposal will undermine planning for future facilities. Therefore, the proposal is consistent with Goal 8.

#### **Goal 9: Economy of the State**

Goal 9 calls for diversification and improvement of the economy. Goal 9 requires communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

**Findings:** Land needs for a variety of industrial and commercial uses are identified in the adopted and acknowledged Economic Opportunity Analysis (EOA) (Ordinance 187831). The EOA analyzed adequate growth capacity for a diverse range of employment uses by distinguishing several geographies and conducting a buildable land inventory and capacity analysis in each. In response to the EOA, the City adopted policies and regulations to ensure an adequate supply of sites of suitable size, type, location and service levels in compliance with Goal 9. The City must consider the EOA and Buildable Lands Inventory when updating the City's Zoning Map and Zoning Code. Because this proposal does not change the supply of industrial or commercial land in the City, the proposal is consistent with Goal 9.

#### Goal 10: Housing

Goal 10 requires local governments to plan for and accommodate needed housing types. The Goal also requires cities to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

**Findings:** The City complies with Goal 10 through its adopted and acknowledged inventory of buildable residential land (Ordinance 187831), which demonstrates that the City has zoned and designated an adequate supply of housing. For needed housing, the Zoning Code includes clear and objective standards. Since approval of this application will enable further investment in the City's existing housing stock by requiring the retention of a living unit for a long-term tenant, the proposal is consistent with Goal 10.

#### Goal 11: Public Facilities and Services

Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs.

**Findings:** The City of Portland maintains an adopted and acknowledged public facilities plan to comply with Goal 11. See Citywide Systems Plan adopted by Ordinance 187831. The public facilities plan is implemented by the City's public services bureaus, and these bureaus review development applications for adequacy of public services. Where existing public services are not adequate for a proposed development, the applicant is required to extend public services at their own expense in a way that conforms to the public facilities plan. In this case, the City's public services bureaus found that existing public services are adequate to serve the proposal, as discussed earlier in this report.

#### Goal 12: Transportation

Goal 12 seeks to provide and encourage "safe, convenient and economic transportation system." Among other things, Goal 12 requires that transportation plans consider all modes of transportation and be based on inventory of transportation needs.

**Findings:** The City of Portland maintains a Transportation System Plan (TSP) to comply with Goal 12, adopted by Ordinances 187832, 188177 and 188957. The City's TSP aims to "make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs." The extent to which a proposal affects the City's transportation system and the goals of the TSP is evaluated by the Portland Bureau of Transportation (PBOT). As discussed earlier in this report, PBOT evaluated this proposal and found the proposal to be consistent with the street designations of the TSP, and also that the transportation system is capable of supporting the proposed use in addition to the existing uses in the area using as evaluation factors 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 (TDM) strategies. A condition of approval will require implementation of TDM measures. Therefore, with the condition of approval, the proposal is consistent with Goal 12.

### Goal 13: Energy

Goal 13 seeks to conserve energy and declares that “land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.”

**Findings:** With respect to energy use from transportation, as identified above in response to Goal 12, the City maintains a TSP that aims to “make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs.” This is intended to promote energy conservation related to transportation. Additionally, at the time of building permit review and inspection, the City will also implement energy efficiency requirements for the building itself, as required by the current building code. For these reasons, staff finds the proposal is consistent with Goal 13.

### Goal 14: Urbanization

This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an “urban growth boundary” (UGB) to “identify and separate urbanizable land from rural land.” It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses.

**Findings:** In the Portland region, most of the functions required by Goal 14 are administered by the Metro regional government rather than by individual cities. The desired development pattern for the region is articulated in Metro’s Regional 2040 Growth Concept, which emphasizes denser development in designated centers and corridors. The Regional 2040 Growth Concept is carried out by Metro’s Urban Growth Management Functional Plan, and the City of Portland is required to conform its zoning regulations to this functional plan. This land use review proposal does not change the UGB surrounding the Portland region and does not affect the Portland Zoning Code’s compliance with Metro’s Urban Growth Management Functional Plan. Therefore, Goal 14 is not applicable.

### Goal 15: Willamette Greenway

Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.

**Findings:** The City of Portland complies with Goal 15 by applying Greenway overlay zones which impose special requirements on development activities near the Willamette River. The subject site for this review is not within a Greenway overlay zone near the Willamette River, so Goal 15 does not apply.

### Goal 16: Estuarine Resources

This goal requires local governments to classify Oregon’s 22 major estuaries in four categories: natural, conservation, shallow-draft development, and deep-draft development. It then describes types of land uses and activities that are permissible in those “management units.”

### Goal 17: Coastal Shorelands

This goal defines a planning area bounded by the ocean beaches on the west and the coast highway (State Route 101) on the east. It specifies how certain types of land and resources there are to be managed: major marshes, for example, are to be protected. Sites best suited for unique coastal land uses (port facilities, for example) are reserved for “water-dependent” or “water-related” uses.

### Goal 18: Beaches and Dunes

Goal 18 sets planning standards for development on various types of dunes. It prohibits residential development on beaches and active foredunes, but allows some other types of development if they meet key criteria. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.

### Goal 19: Ocean Resources

Goal 19 aims “to conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf.” It deals with matters such as dumping of dredge spoils and discharging of waste products into the open sea. Goal 19’s main requirements are for state agencies rather than cities and counties.

**Findings:** Since Portland is not within Oregon’s coastal zone, Goals 16-19 do not apply.

## **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 existing house on its own lot in which the ASTR is proposed is a single-dwelling residential structure that is compatible in appearance and scale with the surrounding residential neighborhood. There are no other non-residential uses within the defined ‘residential area’ so the addition of a Type B ASTR will not materially alter the residential area or lessen the appearance of it. There are other ASTRs just outside of the defined area to this proposed ASTR. These ASTRs also maintain a residential appearance which will not change with the addition of this ASTR. Where there are potential impacts on the surrounding residential area due to noise, late-night operations, and litter, the residential character of the area can be maintained through conditions of approval implementing the House Rules to establish and require conformance with the City’s noise ordinance, providing additional landscaping and buffering, and to provide for disposition of trash and recyclable materials. The fencing and landscaping will also offer improved privacy and will be maintained over time. City services for police, fire, water, and sanitary sewer and stormwater drainage are available and capable of serving the site. The transportation analysis provided by the applicant and reviewed by PBOT demonstrates that the proposal is consistent with the classifications of streets, and that the transportation system is capable of serving the proposed use, including consideration of the impacts of the use on the supply of on-street parking.

## **ADMINISTRATIVE DECISION**

Conditional Use approval of a Type B – 5 Bedroom Accessory Short-Term Rental (ASTR) facility. The accessory dwelling unit is designated for the long-term resident only and must be occupied by a long-term resident at all times the ASTR is offered for rent, per the approved plans, Exhibits C.1 through C.3, signed and dated February 4, 2019, subject to the following conditions:

- A) Prior to the start of operation of the Type B Accessory Short-Term Rental, the ASTR operator must meet the following conditions:
1. Purchase from BDS a fee-paid inspection to confirm that the requirements of Zoning Code Section 33.207.050.B.4 are met for all bedrooms in the house that will be used as ASTR rentals.
  2. Provide residents of properties adjacent to and across the street from the site with phone contact information for the long-term resident, operator, and property owner. Properties include: 4706, NE 14<sup>th</sup> Ave; 1405 and 1416 NE Going St.; and 4623, 4613, and 4605 NE 14<sup>th</sup> Place. The ASTR operator shall maintain paper copies of these notifications, including the list of who was notified and when, for inspection by City staff upon request.

- B) For the duration of operation of the Type B ASTR facility, the ASTR operator will meet the following conditions:
1. The ASTR may not create noise impacts in violation of Portland City Title 18 Noise Control, which prohibits the following:
    - a. Operating or permitting the use of operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or
    - b. Operating or permitting the operating or use of any such device between the hours of 10 PM and 7 AM to be plainly audible within any dwelling unit which is not the source of the sound (the operator may impose a more restrictive time frame).
  2. Commercial, meetings and events are prohibited. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation.
  3. Smoking on the property by ASTR guests, including indoor and outdoor spaces, is prohibited.
  4. The ASTR operator must amend the House Rules to include Conditions 1 through 3 above. The amended House Rules must be included in all advertisements for the ASTR facility.
  5. The ASTR operator must maintain the House Rules and Narrative, as required to be amended by this decision and conditions, for the duration of the operation of the ASTR facility. The ASTR Operator must email or mail copies of these House Rules to guests in advance of their visits. The ASTR Operator must ensure that at least one paper copy of these House Rules and Narrative is displayed prominently within a common area of the house.
  6. All advertisements for the ASTR, including on-line rental sites, shall display prominently in the title of the advertisement the maximum number of bedrooms, the maximum number of people allowed per nightly rental.
  7. Confirmation data from the authorized rental organization (such as Airbnb and VRBO or similar platforms) shall be provided to City staff upon request. Confirmation data must include the name, home address and phone number of the ASTR guests, and the dates of stay.
  8. The ASTR Operator will maintain a Guest Log Book. The Guest Log Book must include the names and home addresses of guests, guest's 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.
  9. On an annual basis, the ASTR operator must provide residents of properties identified in Condition of Approval A.2 with phone contact information for the long-term resident, operator, and the property owner. The ASTR operator shall maintain paper copies of these notifications, including the list of who was notified and when, for inspection by City staff upon request. The ASTR operator is responsible to ensure that phone contact information remains current and neighbors are provided with updates.
  10. The owner must plant trees meeting the L1 landscaping standard (Zoning Code Section 33.248.020.A) and install and maintain a fence that meets the F2 standard of Portland Zoning Code section 33.248.020.G along all property lines in the back yard. The property owner must also maintain them in compliance with 33.248.

**Note:** If City staff obtains evidence that one or more of the situations described in 33.700.040.B exists for this proposal or site, the Bureau of Development Services may initiate a reconsideration of this land use approval per 33.700.040.

**Staff Planner: Don Kienholz**

**Decision rendered by:**  **on February 6, 2019**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: February 11, 2019**

**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 June 27, 2018, and was determined to be complete on December 20, 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 June 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 did not extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: April 19, 2019.**

**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 February 25, 2019** 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 **February 25, 2019** 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

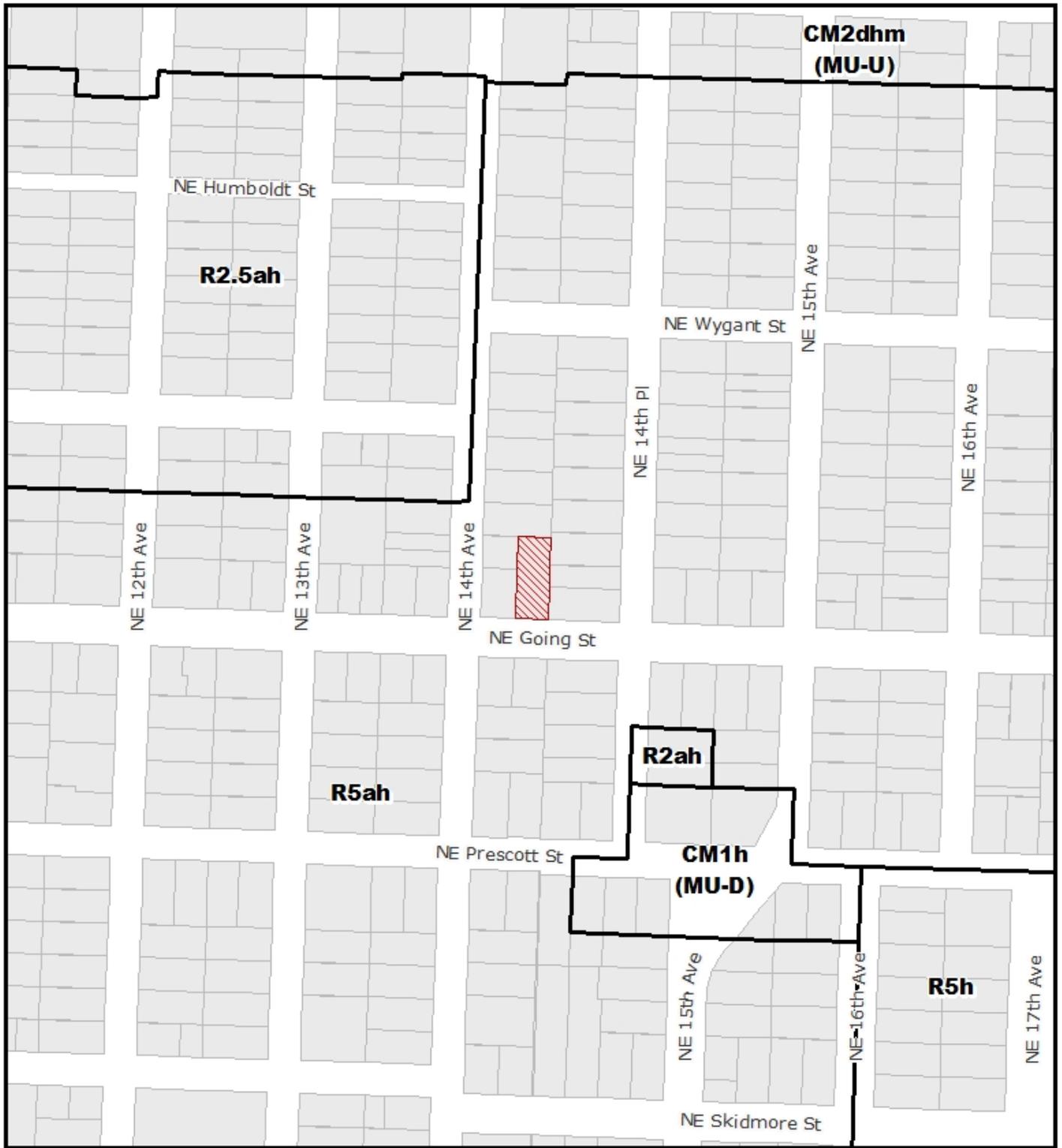
**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

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

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Materials
  - 1. Coversheet and Summary
  - 2. Identification of Long-Term Resident and Driver's License
  - 3. Lease of ADU Between Residents Hans Kleinschmidt and Caleb Gaskins and Owner Margaret Uthman
  - 4. Resident's Written Designation of Margaret Uthman as the Applicant
  - 5. Elevation Drawings of House and ADU
  - 6. Applicant's Narrative
  - 7. Applicants Map of Uses in Residential Area
  - 8. Approved PBOT Traffic Scope Approval Form
  - 9. PBOT's Required ASTR Traffic and Parking Study Form
  - 10. Transportation Impact Analysis and Parking Study Authored by Lancaster Engineering
  - 11. Applicant's Response to Comments Received by Neighbors
  - 12. House Rules
- B. Zoning Map (Attached)
- C. Plans/Drawings:
  - 1. Site Plan (Attached)
  - 2. Basement Floor Plan Floor Plan Identifying 4 Guest Rooms on Second Floor (Attached)
- D. Notification information:
  - 1. Mailing List
  - 2. Mailed Notice
- E. Agency Responses:
  - 1. Site Development, Life Safety, Fire Bureau, Water Bureau and Parks
  - 2. Bureau of Environmental Services
  - 3. Police Bureau
  - 4. Bureau of Transportation Engineering and Development Review
- F. Correspondence:
  - 1. Dawn Nafus, January 3, 2019 email in opposition
  - 2. Sarah Price, January 16, 2019 email in opposition
  - 3. Dan Jaffee, January 17, 2019 email in opposition
  - 4. Jackie Candel, January 17, 2019 email in opposition
  - 5. Pam Reynolds, January 17, 2019 email in opposition
  - 6. Gray Caskey, January 17, 2019 email in opposition
- G. Other:
  - 1. Original LU Application and Fee Receipt
  - 2. Land Use Application with Operator's Information
  - 3. July 9, 2018 Incomplete Letter
  - 4. November 19, 2018 Letter Warning of 180-Day Incompleteness Period
  - 5. Map of Nearby ASTRs
  - 6. Air B&B Add for Subject ASTR

**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 18-194311 CU
1/4 Section	2531
Scale	1 inch = 200 feet
State ID	1N1E23BD 13200
Exhibit	B Jul 03, 2018



